

1 STATE OF SOUTH CAROLINA)

2 COUNTY OF RICHLAND)

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5 JUDICIAL MERIT SELECTION COMMISSION

6 TRANSCRIPT OF PUBLIC HEARING

7 * * * * *

8 BEFORE: REPRESENTATIVE ALAN D. CLEMMONS, CHAIRMAN

9 MS. ERIN CRAWFORD, CHIEF COUNSEL

10 SENATOR LARRY A. MARTIN

11 REPRESENTATIVE BRUCE W. BANNISTER

12 MS. KRISTIAN BELL

13 MR. ROBERT M. WILCOX

14 SENATOR GERALD MALLOY

15 REPRESENTATIVE DAVID J. MACK, III

16 MR. MICHAEL HITCHCOCK

17 MS. SUSAN T. WALL

18

19 DATE: November 20, 2015

20 TIME: 9:14 a.m.

21 LOCATION: Blatt Buildings, Room 516

22 1101 Pendleton Street

23 Columbia, South Carolina 29201

24

25 REPORTED BY: LISA F. HUFFMAN, REPORTER

1	INDEX	
2		PAGE
3		
4	THE HONORABLE WILLIAM GREGORY SEIGLER	
5	Examination by Chairman Clemmons	10
6	Examination by Ms. Simpson	13
7	Examination by Ms. Wall	22
8	Re-Examination by Chairman Clemmons	30
9	Examination by Senator Martin	37
10	Examination by Representative Bannister	42
11	Re-examination by Chairman Clemmons	43
12	Examination by Dean Wilcox	45
13	Examination by Senator Malloy	48
14		
15	THE HONORABLE MIKELL ROSS SCARBOROUGH	
16	Examination by Chairman Clemmons	57
17	Examination by Mr. Maldonado	60
18	Examination by Senator Malloy	71
19	Examination by Ms. Wall	75
20	Re-Examination by Chairman Clemmons	79
21	Examination by Dean Wilcox	81
22		
23	THE HONORABLE THOMAS H. WHITE, IV	
24	Examination by Chairman Clemmons	87
25	Examination by Mr. Maldonado	89

	INDEX (CONTINUED)	
		PAGE
1		
2		
3	THE HONORABLE MELISSA JOHNSON EMERY	
4	Examination by Chairman Clemmons	99
5	Examination by Ms. Anderson	100
6		
7	THE HONORABLE SEBASTIEN PHILLIP LENSKI	
8	Examination by Vice-Chairman Martin	109
9	Examination by Mr. Pearce	110
10		
11	THE HONORABLE PETER L. FUGE	
12	Examination by Chairman Clemmons	125
13	Examination by Mr. Goldin	126
14	Examination by Dean Wilcox	131
15		
16	JOSEPH KING COFFEY	
17	Examination by Chairman Clemmons	136
18	Examination by Mr. Goldin	137
19	Examination by Ms. Wall	140
20	Examination by Senator Martin	141
21		
22	THE HONORABLE JAMES E. CHELLIS	
23	Examination by Chairman Clemmons	142
24	Examination by Ms. Simpson	144
25	Re-Examination by Chairman Clemmons	150

1	INDEX (CONTINUES)	
2		PAGE
3	THE HONORABLE RICHARD LAUREN BOOTH	
4	Examination by Chairman Clemmons	152
5	Examination by Mr. Gentry	154
6		
7	THE HONORABLE JAMES E. MOORE	
8	Examination by Chairman Clemmons	158
9	Examination by Ms. Wells	159
10		
11	THE HONORABLE LEVY S. ALFORD	
12	Examination by Chairman Clemmons	167
13	Examination by Ms. Dean	168
14		
15	THE HONORABLE BROOKS P. GOLDSMITH	
16	Examination by Chairman Clemmons	180
17	Examination by Ms. Dean	181
18		
19	THE HONORABLE CHARLES VICTOR PYLE	
20	Examination by Chairman Clemmons	187
21	Examination by Ms. Dean	188
22		
23	THE HONORABLE ROBERT E. GUESS	
24	Examination by Chairman Clemmons	193
25	Examination by Ms. Simpson	194

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBITS INDEX

PAGE

EXHIBIT NO. 1 11
- Selection Commission Personal Data Questionnaire for
The Honorable William Gregory Seigler, Dated 8/3/15

EXHIBIT NO. 2 11
- Amended Answers to Personal Data Questionnaire for
The Honorable William Gregory Seigler

EXHIBIT NO. 3 13
- Selection Commission Sworn Statement for The
Honorable William Gregory Seigler, Dated 8/3/15

EXHIBIT NO. 4 59
- Selection Commission Personal Data Questionnaire for
The Honorable Mikell Ross Scarborough, Dated 8/6/15

EXHIBIT NO. 5 60
- Selection Commission Sworn Statement for The
Honorable Mikell Ross Scarborough, Dated 8/6/15

EXHIBIT NO. 6 68
- Letter Trenholm Walker to Judicial Merit Selection
Commission, Dated 11/19/15

EXHIBIT NO. 7 68
- Amended Findings of Fact and Conclusions of Law,
Dated 9/22/15

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBIT INDEX (CONTINUES)

PAGE

EXHIBIT NO. 8 88
- Selection Commission Personal Data Questionnaire for
The Honorable Thomas H. White, IV, Dated 7/24/15

EXHIBIT NO. 9 90
- Selection Commission Sworn Statement for The
Honorable Thomas H. White, IV, Dated 7/23/15

EXHIBIT NO. 10 99
- Selection Commission Personal Data Questionnaire for
The Honorable Melissa Johnson Emery, Dated 7/31/15

EXHIBIT NO. 11 100
- Amended Answers to Personal Data Questionnaire for
The Honorable Melissa Johnson Emery, Dated 10/28/15

EXHIBIT NO. 12 101
- Selection Commission Sworn Statement for The
Honorable Melissa Johnson Emery, Dated 7/31/15

EXHIBIT NO. 13 110
- Selection Commission Personal Data Questionnaire for
The Honorable Sebastien Phillip Lenski, Dated
8/10/15

EXHIBIT NO. 14 111
- Selection Commission Sworn Statement for The
Honorable Sebastien Phillip Lenski, Dated 8/7/15

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBIT INDEX (CONTINUES)

EXHIBIT NO. 15 126
- Selection Commission Personal Data Questionnaire for
The Honorable Peter L. Fuge, Dated 8/4/15

EXHIBIT NO. 16 127
- Selection Commission Sworn Statement for The
Honorable Peter L. Fuge, Dated 8/4/15

EXHIBIT NO. 17 137
- Selection Commission Personal Data Questionnaire for
Joseph King Coffey, Dated 7/29/15

EXHIBIT NO. 18 138
- Selection Commission Sworn Statement for Joseph King
Coffey, Dated 7/30/15

EXHIBIT NO. 19 143
- Selection Commission Personal Data Questionnaire for
The Honorable James E. Chellis, Dated 8/10/15

EXHIBIT NO. 20 143
- Amended Answers to Personal Data Questionnaire for
The Honorable James E. Chellis, Dated 10/26/15

EXHIBIT NO. 21 144
- Selection Commission Sworn Statement for The
Honorable James E. Chellis, Dated 8/10/15

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBIT INDEX (CONTINUES)

	PAGE
EXHIBIT NO. 22	153
- Selection Commission Personal Data Questionnaire for The Honorable Richard Lauren Booth, Dated 8/5/15	
EXHIBIT NO. 23	154
- Selection Commission Sworn Statement for The Honorable Richard Lauren Booth, Dated 8/5/15	
EXHIBIT NO. 24	158
- Selection Commission Personal Data Questionnaire for The Honorable James E. Moore, Dated 8/5/15	
EXHIBIT NO. 25	160
- Selection Commission Sworn Statement for The Honorable James E. Moore, Dated 8/5/15	
EXHIBIT NO. 26	168
- Selection Commission Personal Data Questionnaire for The Honorable Levy S. Alford, Dated 7/31/15	
EXHIBIT NO. 27	169
- Selection Commission Sworn Statement for The Honorable Levy S. Alford, Dated 7/31/15	
EXHIBIT NO. 28	180
- Selection Commission Personal Data Questionnaire for The Honorable Brooks P. Goldsmith, Dated 8/5/15	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBIT INDEX (CONTINUES)

PAGE

EXHIBIT NO. 29 182
 - Selection Commission Sworn Statement for The
 Honorable Brooks P. Goldsmith, Dated 7/29/15

EXHIBIT NO. 30 188
 - Selection Commission Personal Data Questionnaire for
 The Honorable Charles Victor Pyle, Jr., Dated 8/5/15

EXHIBIT NO. 31 189
 - Selection Commission Sworn Statement for The
 Honorable Charles Victor Pyle, Jr., Dated 8/6/15

EXHIBIT NO. 32 193
 - Selection Commission Personal Data Questionnaire for
 The Honorable Robert E. Guess, Dated 8/3/15

EXHIBIT NO. 33 195
 - Selection Commission Sworn Statement for The
 Honorable Robert E. Guess, Dated 8/3/15

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Legend of the Transcript

- dashes [--] Intentional or purposeful interruption
- [ph] Denotes phonetically written
- [sic] Written as said

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2
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P R O C E E D I N G S

CHAIRMAN CLEMMONS: Ladies and gentlemen, we are reconvening the Judiciary Selection Commission and staff has legal matters to discuss with us. Chair will entertain a motion to go into executive session.

REPRESENTATIVE MACK So moved.

CHAIRMAN CLEMMONS: We have that motion from Representative Mack and it is so ordered. We would ask all non-staff and non-Commission members, please excuse us while we go into executive session and I'd ask staff security to secure the room.

(Off-the-record executive session.)

CHAIRMAN CLEMMONS: Good morning, Judge Seigler. Thank you for joining us this morning. We have before us the Honorable William Gregory Seigler, Family Court, 11th Judicial Circuit, Seat 1. Judge Seigler, would you raise your right hand and be sworn?

(The judge is sworn in.)

EXAMINATION

(By Chairman Clemmons)

Q. Thank you, Judge Seigler. Judge, you provided this Commission with responses to the personal data

1 questionnaire that we provided you early on in the
2 process. Are those responses correct as it stands
3 today or is there any need for any amendment to
4 those responses?

5 A. As far as I know, sir, everything is still correct.

6 **Q. Do you have any objection to them being included in
7 the record of your sworn testimony today?**

8 A. No, sir. I do not.

9 CHAIRMAN CLEMMONS: Thank you. Is there
10 any objection by the Commission?

11 (No response.)

12 CHAIRMAN CLEMMONS: Hearing none, so
13 ordered.

14 [EXHIBIT 1, JUDICIAL MERIT SELECTION
15 COMMISSION PERSONAL DATA QUESTIONNAIRE FOR
16 THE HONORABLE WILLIAM GREGORY SEIGLER,
17 ADMITTED.]

18 [EXHIBIT 2, JUDICIAL MERIT SELECTION
19 COMMISSION AMENDED PERSONAL DATA
20 QUESTIONNAIRE FOR THE HONORABLE WILLIAM
21 GREGORY SEIGLER, ADMITTED.]

22 **Q. Judge, the Judicial Merit Selection Commission has
23 thoroughly investigated your qualifications for
24 continuation on the bench. Our inquiry has focused
25 on the nine statutory evaluative criteria. As a**

1 result of that process, we've received no
2 affidavits filed in opposition to your election and
3 there are no witnesses present to testify today,
4 other than yourself. And I would ask, do you have
5 a brief opening statement you would like to share
6 with us?

7 A. Representative Clemmons, I'd just like to thank
8 y'all for having me here today and I'd like to
9 apologize in advance. My voice is somewhat
10 impaired. My youngest son's in kindergarten and he
11 seems to bring home some type of cold about once
12 every couple of weeks. I was the unfortunate one
13 to get it and my voice is going to be impaired. So
14 I apologize in advance. I'd like to thank each of
15 you for being here today and allowing me to be
16 here, as well. It seems like yesterday I was here.
17 This is the third time in three years I've been
18 before this Commission and I appreciate everybody's
19 dedication. I know this is a very lengthy process
20 and I look forward to answering any questions you
21 might have of me.

22 Q. Thank you, Judge, and we certainly understand how
23 children will bring bugs home, but if you would,
24 please speak as loudly as possible for the benefit
25 of the court reporter.

1 A. Yes, sir.

2 Q. Great. Thank you very much. Judge, if you would
3 now turn your attention to able counsel, Ms.
4 Simpson, and respond to any questions she may have
5 for you.

6 MS. SIMPSON: Thank you.

7 EXAMINATION

8 By Mr. Simpson:

9 Q. Good morning, Judge Seigler.

10 A. Good morning.

11 Q. You have before you the sworn statement you
12 provided with detailed answers to over 30
13 questions. Are there any amendments you would like
14 to make at this time to your sworn statement?

15 A. No, ma'am, not that I'm aware of.

16 MS. SIMPSON: At this time, Mr. Chairman,
17 I would like to ask that Judge Seigler's sworn
18 statement be entered as an exhibit into the
19 hearing record.

20 CHAIRMAN CLEMMONS: Are there any
21 objection?

22 (No response.)

23 CHAIRMAN CLEMMONS: Hearing none, so
24 ordered.

25 [EXHIBIT 3, JUDICIAL MERIT SELECTION

1 COMMISSION SWORN STATEMENT FOR THE HONORABLE
2 WILLIAM GREGORY SEIGLER, ADMITTED.]

3 **Q. Judge Seigler, after serving for about one year on**
4 **the Family Court bench, why do you want to continue**
5 **serving as a Family Court judge?**

6 A. Well, ma'am, I've thoroughly enjoyed my time thus
7 far, a little over a year. I feel like that I've
8 been able to do a lot of good things for children
9 and also parties who have come before me. This is
10 by far the most fulfilling job that I have ever
11 had. I was a public servant for many years as a
12 public defender in the Tri-County, which was the
13 three counties of McCormick, Saluda, and Edgefield.
14 It was a very demanding job and fulfilling, but not
15 near as fulfilling as this job. I've thoroughly
16 enjoyed it and I appreciate the opportunity to
17 serve thus far.

18 **Q. Thank you. The Commission received 156 ballot box**
19 **surveys regarding you, with 28 additional comments.**
20 **The ballot box survey, for example, contained the**
21 **following positive comments: an excellent family**
22 **court judge, he is exactly the right man for the**
23 **job. He is fair and courteous to all concerned,**
24 **attorneys, parties, and witnesses. Judge Seigler**
25 **is well-respected by the attorneys who appear in**

1 his courtroom. Twenty-one of the written comments
2 expressed concerns. Some comments indicated lack
3 of knowledge. One comment states that you are
4 totally unaware of legal principles or requisite
5 law and has admitted such on certain occasions.
6 What response would you offer to these concerns?

7 A. Well, ma'am, I'm not certain as far as the context
8 of that comment, but I certainly don't feel that I
9 lack the knowledge. I've done very well on the
10 exam. I believe you indicated I made a 91 or a 92
11 on the exam given this year. I practiced Family
12 Court law for 15 years and I certainly feel like I
13 have the requisite knowledge, but I would also
14 indicate that any comment that was made is
15 certainly taken seriously. I will certainly
16 reevaluate whatever I need to do to make certain
17 that that type of comment doesn't take place again.

18 Q. Some comments expressed concerns about disrespect
19 towards women. Comments state that you have
20 referenced female colleagues and litigants as
21 girls. What response would you offer to these
22 concerns?

23 A. Well, ma'am, I don't recall ever calling anybody a
24 girl or anything of that nature. I know when you
25 told me during our meeting that that comment was

1 made, that was probably the most hurtful and
2 concerning comment that you indicated. You know,
3 I've got three young sons that I'm raising to be
4 gentleman that I think that I am. I indicated that
5 to my wife and, quite frankly, she like to fainted
6 because I certainly have never intentionally been
7 disrespectful to anyone, female, male, or
8 otherwise, but again, I take it very seriously and
9 if that's the perception, then I certainly need to
10 make adjustments.

11 **Q. Thank you. Some comments expressed concerns about**
12 **your demeanor and judicial temperament. A**
13 **comment refers to you as a bully and another**
14 **refers to you as impatient, demeaning, and**
15 **unnecessarily aggressive. What response would you**
16 **offer to these concerns?**

17 A. Again, ma'am, I'm not certain the context of those
18 comments, but if they were made then I
19 certainly need to make adjustments going forward.
20 I never intentionally was impatient, but if that
21 was the perception then I need to do a better job
22 and make adjustments to avoid any type of situation
23 in the future.

24 **Q. And Judge Seigler, what do you believe is the**
25 **appropriate demeanor for a judge?**

1 A. Well, excuse me. Ma'am, I believe that you can be
2 an excellent attorney, the most superior attorney
3 on the planet, but without the proper and
4 appropriate demeanor, I don't think you can even be
5 a good judge. I've made every effort and will
6 continue to make every effort to have the proper
7 demeanor that I feel like I should have to avoid
8 any comments of this nature going forward.

9 **Q. And lastly, one comment expressed concerns with**
10 **timeliness by noting you are slow on paperwork and**
11 **fail to review temporary hearing submissions. What**
12 **response would you offer to this concern?**

13 A. Again, now, I'm not certain what context those
14 comments were made. I hate to be repetitive, but
15 any comments that are made, both positive and
16 negative, I certainly take seriously. We're
17 required to report any orders that are over 30 days
18 old. I have yet to have to report any during my
19 entire year plus. I try to sign the orders
20 immediately, and again, I've never had to report
21 anything to the Supreme Court. So -- but I do
22 review all exhibits. In fact, during temporary
23 hearings, I remove myself from the bench to go to
24 my chambers and read all exhibits.

25 **Q. Thank you. Mr. Chairman, I would like to request**

1 **that we now go into executive session to handle**
2 **further matters.**

3 CHAIRMAN CLEMMONS: So ordered. If
4 security and staff would secure the room.

5 (Off-the-record executive session.)

6 CHAIRMAN CLEMMONS: We're rising from
7 executive session after having discussed an
8 issue of concern and made no decisions, took
9 no votes and we're back on the record with
10 Judge Seigler. Ms. Simpson.

11 (By Ms. Simpson)

12 **Q. Judge Seigler, in your PDQ, you disclosed you've**
13 **been the subject of three lawsuits. The one in**
14 **2012 involved a foreclosure action. Please explain**
15 **the nature and disposition of this lawsuit.**

16 A. Yes, ma'am. I was a personal representative over
17 an estate in the Savannah Lakes Village, which is a
18 retirement community on Lake Thurmond in McCormick.
19 A gentleman passed away, of course, and had a
20 reverse mortgage and they foreclosed on it. He
21 didn't have any assets to pay it off.
22 First Citizens, I think, or maybe Wells Fargo
23 foreclosed on it and they named me in my capacity
24 as personal representative. The house was sold.
25 The loan was payed off. No judgements against

1 anyone.

2 **Q. And there was a lawsuit in 2005 that involved a**
3 **real estate transaction with the Sides and the**
4 **Lowes?**

5 A. That is the letter of caution that Ms. Wall
6 referenced. So apparently, there was litigation
7 filed at some point.

8 **Q. And the last action was in 2011 and it involved a**
9 **past client. This was when you were a public**
10 **defender. Please explain the nature and**
11 **disposition of this lawsuit.**

12 A. Yes, ma'am. I represented a gentleman who was
13 charged with murders in Georgia and Edgefield
14 County. He was awaiting his trial for the murders
15 in Edgefield at which time he was charged
16 with throwing bodily fluids on a correctional
17 officer at the Edgefield County Detention Center.
18 I represented him at the trial. He was ultimately
19 found guilty of throwing bodily fluids. However,
20 the case was later overturned for certain issues.
21 Then he went to trial for the murders and received
22 the death penalty and he filed a lawsuit against me
23 as an inmate, claiming that I didn't provide
24 discovery to him. He also sued the
25 sheriff's department. That case was dismissed.

1 Q. Thank you, Judge Seigler.

2 A. Thank you, ma'am.

3 Q. Just a few housekeeping issues. Have you sought or
4 received the pledge of any legislator prior to this
5 date?

6 A. No, ma'am. I have not.

7 Q. Have you sought or have you been offered a
8 conditional pledge of support of any legislator
9 pending the outcome of your screening?

10 A. No, ma'am.

11 Q. Have you asked any third parties to contact members
12 of the General Assembly on your behalf?

13 A. No, ma'am.

14 Q. Are you aware of anyone attempting to intervene in
15 any part of the process on your behalf?

16 A. No, ma'am.

17 Q. Have you contacted any members of the Commission?

18 A. No, ma'am.

19 Q. Do you understand that you are prohibited from
20 seeking a pledge or a commitment until 48 hours
21 after the formal release of the Commission's
22 report?

23 A. Yes, ma'am. I understand that.

24 Q. Have you reviewed the Commission's guidelines on
25 pledging?

1 A. Yes, ma'am.

2 Q. As a follow-up, are you aware of the penalties for
3 violating the pledging rules, that is, it is a
4 misdemeanor and, upon conviction, the violator must
5 be fined not more than \$1000 or imprisoned not more
6 than 90 days?

7 A. Yes, ma'am.

8 Q. I would like to note that the Midlands Citizens
9 Committee reported that Judge Seigler is qualified
10 in the evaluative criteria of constitutional
11 qualifications, physical health, and mental
12 stability. And well qualified in the evaluative
13 criteria of ethical fitness, professional and
14 academic ability, character, reputation,
15 experience, and judicial temperament.

16 In summary, the committee stated that Judge
17 Seigler has grown in his position nicely. He has
18 the qualities required to be a very good Family
19 Court judge. I would just note for the record that
20 any concerns raised during the investigation
21 regarding this candidate were incorporated into the
22 questioning of the candidate today.

23 MS. SIMPSON: Mr. Chairman, I have no
24 further questions.

25 CHAIRMAN CLEMMONS: Thank you,

1 Ms. Simpson. Ms. Wall?

2 MS. WALL: Judge.

3 JUDGE SEIGLER: Yes, ma'am?

4 MS. WALL: I have some questions for you.

5 Let me just back up a minute.

6 EXAMINATION

7 (By Ms. Wall)

8 **Q. You were asked about three lawsuits. I want to go**
9 **to the second one because I never did hear what the**
10 **disposition was going on. Tell us a little bit**
11 **more about the second lawsuit that she asked you**
12 **about.**

13 A. Yes, ma'am. Ma'am, apparently from the complaint
14 that you referenced in regards to the real
15 estate transaction, a lawsuit was filed by the
16 Lowes, who were the sellers that we discussed
17 earlier. My understanding is that it was
18 dismissed. I don't recall.

19 **Q. Well, were you served with a lawsuit? Did you hire**
20 **an attorney to represent you? Did you represent**
21 **yourself pro se? I mean, what happened?**

22 A. No, ma'am. I never hired anybody. If I recall, I
23 don't recall whether I ever filed an answer or not,
24 but it was dismissed at some point. It was in
25 2005, I believe, Ms. Simpson said. I've never had

1 any type of judgment or anything of that nature.

2 **Q. And the people who brought this lawsuit, were they**
3 **your clients?**

4 A. No, ma'am. The sellers were -- the buyers were.
5 The sellers filed suit claiming they only intended
6 on selling half of the property which is not what
7 the contract indicated.

8 **Q. Were you in that real estate closing representing**
9 **both the buyers and the sellers?**

10 A. No, ma'am. If I recall correctly, I was just
11 representing the buyers.

12 **Q. Did the seller have an attorney?**

13 A. No, ma'am.

14 **Q. And it was the seller who filed the lawsuit against**
15 **you?**

16 A. Yes, ma'am, if I recall correctly. Like I say, it
17 was dismissed. There was never any judgement or
18 trial or hearing to my knowledge.

19 **Q. So you recall that they simply withdrew the case or**
20 **was there a 40(j) or did you go to court to**
21 **ask that the case be dismissed because there's no**
22 **merit or they weren't your clients or whatever the**
23 **basis was?**

24 A. No, ma'am. I never appeared in court for that
25 case. My recollection is it was dismissed or

1 withdrawn. I apologize, Ms. Wall, I don't remember
2 the details. I hope I'm answering your questions
3 appropriately.

4 **Q. Okay. I'm asking you what you recall and**
5 **you've certainly answered the question. Let me go**
6 **to a few other things. Would you tell this**
7 **Commission, please, describe for us the**
8 **characteristics of what you consider to be the**
9 **proper demeanor of a judge in the state of South**
10 **Carolina.**

11 A. Yes, ma'am. I'd be glad to. I certainly
12 think that all of us, in any capacity, judges need
13 to be fair, serious, and business-like, but
14 always respectful and courteous to the litigants as
15 well at the lawyers. I've certainly made every
16 effort to do so. Obviously, I need to improve, but
17 I do feel like I've been fair. Certainly, in the
18 Family Court arena, being business-like and serious
19 at all times. I believe it's important that every
20 litigant understand that I'm aware, and all Family
21 Court judges are aware, of the seriousness of their
22 case. I try to be as serious as possible, but also
23 professional and courteous. I would hope that they
24 understand that I'm aware of how serious they
25 feel it is. I also would hope that in the event

1 that something happened to me and my wife, that the
2 Family Court judge hearing my case would treat it
3 as business-like and as serious.

4 **Q. Now, in your answering, you said something about if**
5 **the perception of you was not that way, then you**
6 **would try to do -- what is it that you, going**
7 **forward, what changes, if any, would you make in**
8 **your current demeanor as a judge?**

9 A. I just would be much more aware of the situation
10 and try to appear more courteous and respectful.
11 Certainly, I never intended to be rude to anyone,
12 but again, those comments were made. I take them
13 seriously and I need to do a better job and I will
14 certainly do so going forward.

15 **Q. And when you say being respectful, what do you**
16 **mean?**

17 A. I don't know if my mannerisms, facial expressions,
18 or whatever may have been interpreted that way. I
19 certainly have never intentionally been
20 disrespectful. So possibly I need to change
21 my facial expressions if I'm making any
22 unconsciously. I'll certainly pay close attention
23 to that. Since my bar interview, which was quite
24 devastating to me, I'm embarrassed by the comments.
25 I'm shocked, but most of all, I'm disappointed.

1 **Q. And who are you disappointed in?**

2 A. Disappointed in the comments, but I'm also
3 disappointed in myself if that's the perception
4 because I've worked very hard to get here and I've
5 worked very hard to try to be professional. I'm
6 completely embarrassed and devastated by the
7 comments and I'll do anything I can to avoid them
8 in the future.

9 **Q. And so my question for you specifically is what do**
10 **you intend to do, if anything?**

11 A. Differently, ma'am?

12 **Q. Yes.**

13 A. Again, I'm speculating because I don't know exactly
14 how I was disrespectful, but if they made the
15 comments, then clearly, they felt like they were
16 valid. Possibly my facial expressions, mannerisms.
17 I've never raised my voice. I've never said
18 anything disrespectful, to my knowledge, to anyone,
19 but again, I need to try harder and do a better job
20 if that's the perception.

21 **Q. Well, do you think it's possibly more than just a**
22 **perception? One of the comments was -- there were**
23 **two comments, I'm sorry. Two of the comments are**
24 **that -- and this is a specific incidence -- that**
25 **you referred to a 44 year old and in your book, is**

1 **that an adult?**

2 A. Yes, ma'am.

3 **Q. Forty-four year old pro se -- that means**
4 **unrepresented, correct?**

5 A. Yes, ma'am.

6 **Q. -- litigant before your court. Forty-four year old**
7 **pro se defendant -- you referred to that pro se**
8 **defendant as a girl. Is a 44 year old woman, in**
9 **your opinion, appropriately addressed by anyone as**
10 **a girl?**

11 A. No, ma'am. Forty-four -- I'm only 41, so she is
12 certainly older than me and that's totally
13 inappropriate.

14 **Q. Do you recall making such a comment?**

15 A. No, ma'am, but if I did, I certainly don't recall
16 it. If I did, it's absolutely inappropriate.

17 **Q. Why would you have made such a comment? Why would**
18 **you have addressed, as a judge, -- addressed a**
19 **litigant in your court, a grown woman, as a girl?**

20 A. Again, Ms. Wall, I don't recall doing that and
21 there would've been no reason for me to do that,
22 but if that comment is made, then apparently they
23 thought it was a valid comment. But I don't recall
24 doing that, ma'am, and if I did, that's totally
25 inappropriate. I certainly will never do it again

1 if it happened. I don't recall it happening. If
2 it was, Ms. Wall, it was totally inadvertent and I
3 certainly will go forward making absolutely
4 certain that it never happens again.

5 **Q. Can you tell us the name of one or more judges who**
6 **you've had occasion to observe or appear before,**
7 **before you went on the bench, that you consider to**
8 **embody the appropriate characteristics, appropriate**
9 **demeanor of a judge in South Carolina?**

10 A. Yes, ma'am. Family Court judge Gene Morehead is an
11 excellent Family Court judge. I think he embodies
12 the temperament aspect and also knowledge needed in
13 Family Court. Judge Allen, the gentleman that
14 I replaced, was also an absolute gentleman who did
15 a very fine job in Lexington County. Judge Jim
16 Johnson, Billy Tunstall, both of them are
17 8th Circuit who passed away now. They were both
18 excellent judges with excellent demeanor. There's
19 many of them, ma'am, if you want me to continue.

20 **Q. Have you ever had occasions, since going on the**
21 **bench, to think about patterning yourself after one**
22 **of those judges?**

23 A. Yes, ma'am. I mean, there's a number of them that
24 I feel like do a fine job and have an absolutely,
25 in my opinion, excellent demeanor. Again, Judge

1 Morehead does a very, very good job. Judge
2 Keelsley, out of our circuit as well, has been a
3 circuit judge for many years. I think he does a
4 very good job. I've appeared before him many
5 times. So there's a number of them that I think
6 have excellent qualities that would be a fine
7 candidate to mirror myself going forward.

8 **Q. One of the comments or several of the comments**
9 **reference your lack of patience in the courtroom.**
10 **What would be your response to that?**

11 A. Again, ma'am, I don't know the context of that
12 comment, but I certainly have made every effort to
13 be patient. There are times that the volume in
14 our circuit is overwhelming. I try to stay on time
15 in order to avoid to burdening the litigants and
16 lawyers waiting on their turn. Could that possibly
17 interpreted as impatient? Possibly, Ms. Wall, but
18 again, I don't know the context of it. I
19 certainly have tried to be patient. And again, I
20 hate to repetitive, but every comment's taken
21 seriously and I will do everything I can to avoid
22 the appearance of being impatient because I
23 certainly have never attempted to do that.

24 MS. WALL: Thank you, Mr. Chairman.

25 CHAIRMAN CLEMMONS: Thank you, Ms. Wall.

1 RE-EXAMINATION

2 (By Chairman Clemmons)

3 Q. Judge, Ms. Wall made mention and you made mention
4 of the bar report that was provided to this
5 Committee as a result of the investigatory process.
6 That bar report found that you were, overall, --
7 found that, with regard to constitutional
8 qualifications, physical health, mental stability,
9 ethical fitness, and character that you were
10 qualified. And then in four categories found you
11 unqualified. I'd like you to respond as to each of
12 those four categories whether you agree or disagree
13 with regard to the findings of the Bar Committee.
14 And we would be interested in your response to
15 going forward, what your plans are with regard
16 to each of those areas, professional and academic
17 ability, if you'd like to respond to that?

18 A. Yes, sir, Representative Clemmons. Again, I'm not
19 sure of where the comments are coming from or the
20 context, but I'll respond to your question as well
21 as I can, sir.

22 Q. Thank you and we'll come back to the overall
23 after I ask about the individuals and I'd like to
24 get your response -- your impressions and response
25 as to why you think that overall was given, but

1 **right now I'd like to focus on the individual**
2 **components, professional and academic abilities**
3 **being first.**

4 A. Yes, sir. Again, I practiced law for 15 years and
5 I did an extensive amount of Family Court work --
6 an extensive amount. I've handled cases in every
7 aspect of Family Court from juveniles to DSS to
8 everything basically other than prosecuting
9 juveniles. I represented hundreds and hundreds of
10 juveniles as co-defendants. I have excelled at the
11 test given by the Commission. I'm not certain what
12 I'm lacking in academic ability unless the comments
13 say that I didn't know something specifically. I'm
14 not sure of any situation that I've lacked.

15 **Q. That's a fair.**

16 CHAIRMAN CLEMMONS: If I could ask your
17 screening attorney Ms. Simpson, what was Judge
18 Seigler's score on the test?

19 MS. SIMPSON: The score, I believe, was a
20 91.2 and 91.

21 CHAIRMAN CLEMMONS: Thank you very much.

22 **Q. The next area is reputation. Would you comment on**
23 **that the Bar Committee found you unqualified?**
24 **Would you please comment as to your reputation?**

25 A. Again, Mr. Chairman, I'm not sure what the context

1 -- you know, how they were made or what part of my
2 reputation is lacking, but again, I keep repeating
3 myself. I take them seriously. I'll reconsider
4 everything and do the best I can to avoid these
5 type of comments in the future, but I understand
6 that I'm in a different position today than I was
7 the last two times, but I was qualified each and
8 every time before and I'm not certain what I've
9 done differently. I've tried very hard to be
10 respectful and maintain a good reputation and
11 again, Representative Clemmons, I'm not sure what
12 context that's in as to what part of my reputation
13 is in question.

14 **Q. Okay. That's fair. And the third is experience in**
15 **which you were found unqualified.**

16 A. That one in itself, Mr. Chairman, is perplexing as
17 any because I was found qualified two times
18 before and now I've got an additional year on the
19 bench. I'm not sure how to respond to that. My
20 experience, again, I practiced in every facet of
21 Family Court law except prosecuting juveniles for,
22 you know, 15 years and I've got an additional year
23 as a Family Court judge. So I'm not sure how I go
24 from qualified last year and another year
25 experience and now I'm not qualified. I'm

1 certainly not taking that lightly, but I'm not sure
2 how to respond to that.

3 **Q. Judicial temperament.**

4 A. Yes, sir, and that's the most important one in my
5 opinion, Mr. Chairman. Again, if my actions have
6 been misinterpreted as being disrespectful or rude
7 in any way then I have failed and I'm embarrassed
8 and I am devastated by the comments. I'm shocked
9 and disappointed, but I'll do everything I can to
10 avoid that in the future. I certainly have never
11 intentionally been rude or lacking in temperament
12 intentionally. And again, Representative Clemmons,
13 I've been treated rude by judges before just like
14 every attorney sitting here and when I began this
15 job, I assured myself that I would never be rude or
16 disrespectful to anyone and I'll do a better job to
17 ensure that going forward.

18 **Q. Thank you and I want to come back to that in a**
19 **minute, but before I do, I'd really like for you to**
20 **talk to us about the overall finding of**
21 **unqualified. You are a sitting Family Court judge**
22 **and the Bar committee has determined that you are**
23 **unqualified to sit on the bench. Would you please**
24 **respond to that and in your response, if you**
25 **believe it's unwarranted, the basis by which it is**

1 **unwarranted and if you believe there's anything**
2 **underlying that report, I'd like for you to share**
3 **that with us.**

4 A. Mr. Chairman, again, at the risk of repeating
5 myself, I don't know the context or who made the
6 comments so speculating would be all I could do as
7 for who made it and why. My understanding is
8 through the Bar process, if they find you not
9 qualified in one category then you're unqualified.
10 I certainly feel like that I'm qualified. I think
11 I've done a very good job, but obviously, not as
12 good as I could have based on the comments. I was
13 in a very contentious race last year. I don't know
14 if that had anything to do with these comments or
15 not. Again, Mr. Chairman, that would be
16 pure speculation on my part because I have no
17 proof. I have no idea who made those comments,
18 but apparently if they sent them, they felt like
19 they were valid. I certainly take them seriously
20 and I'll make every effort to avoid in the future.
21 Again, sir, at the risk of repeating myself, I
22 don't know where they came from or what context.

23 **Q. Has there been any member of the Bar Committee**
24 **that's reached out to you to discuss those**
25 **findings?**

1 A. A member of the Bar Committee?

2 **Q. The committee that prepared that report.**

3 A. Ms. Joyce, is it? She was one of the ladies on my
4 panel. She called me to tell me their findings.

5 **Q. Did you inquire as to the not qualified?**

6 A. Yes, sir, I asked her, you know, what does this
7 mean? Because when we went to the interview, I was
8 shocked at the comments that were made. You know,
9 my effort when I started this job was not to
10 get any negative comments and to receive
11 notification at that interview that I had received
12 negative comments, I was shocked. And I asked her,
13 what does this mean? I mean, I've never been
14 found not qualified in any category. So it was
15 news to me. It was totally new ground. I didn't
16 know how to respond.

17 **Q. And based upon her reply, were you enlightened as
18 to the findings?**

19 A. Yes, sir. She told me what they had found. Then
20 they sent it in the form of an email or letter.

21 **Q. Did she describe the process whereby those findings
22 were --**

23 A. The way I understood it, sir, was that the five
24 member committee contacted lawyers in my area
25 mainly that appeared before me and they based their

1 findings on those responses is my understanding,
2 sir.

3 Q. Let me go back to judicial temperament. Ms. Wall
4 asked you about the two comments. First of all,
5 let me say when we receive ballot box surveys,
6 personally, a single ballot box survey standing on
7 it's own has little probative value in my mind
8 because it's anonymous and that anonymous ballot
9 box survey could have come from an opponent in a
10 previous race. It could have come from your mother
11 in law and there's no telling where it could've
12 come from. But when I receive two separate ballot
13 box surveys or more that make the same complaint,
14 it raises my level of concern. And when we receive
15 not one, but two, ballot box survey comments that
16 refer to this 44 year old pro se defendant where it
17 alleges that you referred to her as girl and there
18 are -- we have been briefed on your interaction
19 with Ms. Simpson and we understand that you
20 referred to Ms. Simpson on one occasion as "honey."
21 And while you've been with us today you made a
22 comment of the person that answers your phones --

23 SENATOR MALLOY: Mr. Chair? I would
24 submit that any comments that we may have made
25 in executive session --

1 A. Yes, sir.

2 **Q. How did you feel about?**

3 A. Awful. Awful.

4 **Q. How did it start out?**

5 A. How did it start out?

6 **Q. Yes. Did they give you an opportunity to be heard**
7 **or did they start with what they had heard from**
8 **other attorneys and said "Judge, we got a problem?"**

9 A. They asked me if I'd like to make an opening
10 statement, sort of like Representative Clemmons did
11 and, I believe, I basically said, you know, recited
12 how I enjoy the job and appreciate the opportunity
13 and so forth and then they indicated the negative
14 comments.

15 **Q. And how did you react to that to them?**

16 A. I was, quite frankly Senator Martin, shocked at the
17 comments. I indicated to them that I felt like I
18 had tried very hard to be respectful and courteous
19 to everybody. I think I also indicated to them
20 that I knew I was from a very small county and
21 under the microscope at all times and that I was
22 very conscious and aware of that.

23 **Q. Did you know any of the attorneys on the panel that**
24 **interviewed you?**

25 A. Yes.

1 Q. You did?

2 A. Yes, sir.

3 Q. Had any of them appeared before you?

4 A. Yes, sir.

5 Q. Had you had any issues with any of those attorneys?

6 A. Yes, sir. I sure have. If you're asking me
7 specifically, Senator, I'll be glad to address it.

8 Q. Yes, I'd like to hear it.

9 A. One of the attorneys who was on my five member
10 panel, who also made most of the comments and asked
11 most of the questions, had appeared before me about
12 two months after I started. That attorney was
13 instructed to get me an order as to the findings.
14 She did not do so. The case was stricken by Judge
15 Gwen Jones for failure to comply with the 365 day
16 rule. The attorney contacted my office. I had my
17 assistant tell the attorney that there was nothing
18 that I could do, that the chief administrative
19 judge had struck the case because an order had not
20 been sent to me to be signed and she struck it.
21 They took efforts to have the case reinstated by
22 the chief administrative judge.

23 Q. Help me out. When you say struck the case, you
24 mean dismiss the case?

25 A. Yes, sir. Yes, sir. Chief Justice has implemented

1 that if the case is filed and not completed or at
2 least scheduled for trial within 365 then it's
3 dismissed or struck. She was extremely
4 disgruntled, made it very evident. And that
5 attorney was the attorney who questioned me at
6 length and that attorney made a disturbing comment
7 during our interview and I remember it vividly
8 because I've never heard the comment, but that
9 attorney said have you ever heard that a teacher
10 should not smile before Thanksgiving. I said "I
11 have not. I'm not certain what that means or what
12 you're referencing." And that particular attorney
13 questioned me at length. She indicated you're not
14 happy with your job. Are you stressed out, various
15 different comments. And I'm not trying to direct
16 any blame on any one. I'm responsible for these
17 comments.

18 **Q. So you felt like it was one attorney that was sort**
19 **of out to disqualify you?**

20 A. Senator Martin, that's pure speculation on my part.
21 I'm not trying to blame any attorney on that panel,
22 but I didn't know the rest of them.

23 **Q. That was the only one you knew?**

24 A. Yes, sir.

25 **Q. And that one asked most of the questions?**

1 A. Yes, sir.

2 **Q. The others didn't seem to interact that much?**

3 A. They did ask questions, but not near as extensive.
4 And again, Senator Martin, I don't want
5 anybody here to think that I'm trying to blame that
6 attorney, but respectfully, Senator Martin, you
7 wanted me to elaborate.

8 **Q. And we needed to know and I appreciate it. You**
9 **know, my concern is that on top of the pretty**
10 **significant, as staff already indicated, the**
11 **Chairman indicated, and Ms. Wall -- the significant**
12 **number of negative comments gives us concern**
13 **because you're here today to be considered for a**
14 **six year term and it's our responsibility and a**
15 **very awesome responsibility whether to determine if**
16 **you should go forward for another six year term or**
17 **not.**

18 A. Yes, sir.

19 **Q. And that's what's giving us concern, that in one**
20 **year on the bench that these kinds of comments,**
21 **these kinds of concerns for a relatively new judge**
22 **and a young judge would be this prevalent.**

23 A. It concerns me, too, Senator, that the comments
24 were made.

25 **Q. You can understand the predicament we're in.**

1 A. Yes, sir and I understand -- again, I don't know
2 where they're coming from or the context, but I
3 take all of them seriously.

4 Q. Well, you knew where those five attorneys were in
5 that room that issued this unqualified report.

6 A. And my understanding, Senator, is they based that
7 on the calls that they made to the other attorneys.

8 Q. Right. I appreciate your candor with us and your
9 demeanor here today. I really respect and
10 appreciate that.

11 A. Thank you, Senator.

12 CHAIRMAN CLEMMONS: Representative
13 Bannister.

14 EXAMINATION

15 (By Representative Bannister)

16 Q. Judge, I just have one quick -- what was the nature
17 of the order that the lady didn't -- the case being
18 stricken? Was it a final order or was it
19 temporary? What -- everybody does it different.
20 In Greenville, if you get your mediation report
21 done, you don't get stricken, you just ask for a
22 trial. So I'm trying to figure out what order was
23 it she didn't submit; if you remember?

24 A. Representative Bannister, if I remember correctly,
25 it was an order requiring a mental evaluation of

1 one of the clients and I'm not certain of that, but
2 it was never scheduled for trial, I believe, is why
3 it was ultimately stricken by chief administrative
4 judge.

5 **Q. Okay. Would the order have included language to**
6 **postpone the strike date, or?**

7 A. No, sir, because I wouldn't have the authority to
8 do that as a visiting judge. Only chief
9 administrative judge would have the authority to
10 disregard 365.

11 **Q. Thank you. I'm just curious, has she blamed not**
12 **getting the case done in a 365 day time frame on an**
13 **order not being issued? Just curious. Thanks.**

14 A. Thank you, sir.

15 FURTHER EXAMINATION

16 (By Chairman Clemmons)

17 **Q. Judge Seigler, who was the attorney that asked**
18 **those questions that we've have referred to.**

19 A. Ms. Bryson. Emma Bryson.

20 **Q. Bryson? B-r-y-s-o-n?**

21 A. Yes, sir. I think so.

22 **Q. Thank you. Just to briefly follow up on my**
23 **questions before, do you appreciate that when**
24 **referring to colleagues or attorneys in the**
25 **courtroom or litigants or other attorneys outside**

1 of the courtroom or to women in general, that some
2 would object to being referred to as girl or honey
3 or the like?

4 A. Absolutely.

5 Q. To follow up on a very important question Ms. Wall
6 asked you, in that specific regard, going forward,
7 what will you do to try to see that this concern
8 never arises again?

9 A. Would you clarify that for me, Mr. Chairman? Which
10 concern?

11 Q. Are you going to do anything in your practice with
12 regard to the allegations of referring to women on
13 the bench and in life as girl or honey, or?

14 A. Yes, sir, and again, if I did that, it was totally
15 inadvertent and totally disrespectful.

16 Q. Going forward, is there anything that you're going
17 to do in your practice?

18 A. Yes, sir. I certainly am.

19 Q. And what will that be?

20 A. I'm going to be very cognizant not to say anything
21 of that nature and double my efforts to avoid any
22 type of comment like that. Again, if I made those
23 comments, those are inadvertent. I'm responsible
24 for them and I take full responsibility for it and
25 I will certainly never make those type of comments

1 towards anyone. Again, Representative Clemmons,
2 I've got three young sons. I was raised to be a
3 gentleman. I try to be. That type of comment is
4 not being a gentleman and it's totally
5 inappropriate and I can assure you that my sons,
6 nine, seven, and five have never been exposed to
7 any type of comments like that. I treat my wife
8 like the queen that she is. I love her very much
9 and she knows that and my boys treat her with
10 respect. I've never been disrespectful to females
11 intentionally in any way and I certainly would
12 never do so. Again, when I told my wife about that
13 comment, she literally almost fainted because I've
14 never intentionally been disrespectful to a lady in
15 any fashion. And if I said that, ma'am, I
16 apologize. Again, I never intentionally meant to
17 say that if I did.

18 CHAIRMAN CLEMMONS: Thank you, Judge.

19 Dean Wilcox is next.

20 DEAN WILCOX: Mr. Chairman, thank you.

21 EXAMINATION

22 (By Dean Wilcox)

23 **Q. Judge, you mentioned several times sort of the code**
24 **of being a gentleman, if you will, or the concept**
25 **of being a gentleman and I noticed you have what**

1 appears to be a Citadel necktie on today.

2 A. Yes, sir.

3 Q. And I assume you're proud of the men and women who
4 graduate from the Citadel?

5 A. Very proud, sir.

6 Q. I'm going to go back 20 years and ask you a
7 question and I do it given the comments in
8 the ballot box regarding the gender aspects. Am I
9 correct, were you a rising senior at the
10 Citadel when Shannon Faulkner was admitted?

11 A. Yes, sir. I was in class with her.

12 Q. That was a fairly emotional time around the
13 Citadel, I assume.

14 A. Yes, sir.

15 Q. Were there cadets, at that time, who wanted her out
16 of the Citadel?

17 A. Yes, sir.

18 Q. You mentioned you were in class with her. Did you
19 have contact with her?

20 A. I spoke to her, sir. When I was there, if you want
21 me to elaborate, she was -- the Supreme Court case
22 was still pending -- the VMI case was pending. She
23 was allowed to attend classes with us, but not
24 allowed to be a member of the Corps until, as you
25 indicated, my senior year and she resigned --

1 Q. Very quickly.

2 A. -- before I got -- yes, sir, before I got back.

3 Q. But did you personally observe conduct or hear
4 comments made by other cadets suggesting that she
5 would be treated differently because of gender?

6 A. Dean Wilcox, I don't recall hearing those, but I'm
7 absolutely certain that there were. I never
8 participated in any type of comments like that.

9 Q. That was going to be my next question.

10 A. No, sir.

11 Q. Twenty years removed from that, regardless of --
12 and I'm not concerned about your viewpoint as to
13 whether the Supreme Court decision was right or
14 wrong because I know that is a different issue.

15 A. I think it was right if you want to know my answer,
16 Dean.

17 Q. Fair enough. Do you think the treatment that some
18 suggested for women was an appropriate response to
19 their being admitted, or?

20 A. Do I think it was appropriate?

21 Q. Yes.

22 A. No, sir. Is it appropriate to treat them
23 differently?

24 Q. Yes.

25 A. No, sir. And again, when I graduated, no ladies

1 had been admitted, other than Ms. Faulkner.

2 **Q. Right. She had been there like four days, as I**
3 **recall.**

4 **A. Like I said, we had classes and then she came in**
5 **for Cadre, which is the training portion and I**
6 **wasn't on Cadre that year. So she resigned before**
7 **I ever returned to campus.**

8 **Q. And you are clear that you did not participate in**
9 **activities or efforts to have her removed?**

10 **A. No, sir. I wasn't even there.**

11 **Q. And I don't mean to stress by my questions I**
12 **thought he was. I just wanted to be clear on that.**
13 **So thank you, those are my questions.**

14 CHAIRMAN CLEMMONS: Thank you, Dean
15 Wilcox. Senator Malloy.

16 SENATOR MALLOY: Thank you, Mr. Chairman.

17 EXAMINATION

18 (By Senator Malloy)

19 **Q. Judge, thank you for being here and thank you for**
20 **answering all of the questions that you have and I**
21 **recall your last race. We had lots of interaction**
22 **and I do recall it being somewhat contentious along**
23 **the way. I want to go back. When you were a young**
24 **lawyer, you did a lot of work in the Public**
25 **Defender's Office; is that correct?**

1 A. Yes, sir.

2 **Q. And how many years were you in the Public**
3 **Defender's Office?**

4 A. Seven years, sir. I believe I started before the
5 implementation of the circuit Pee Dee system, when
6 it was just the Tri-County corporation. I did it
7 for about a year and then six more as -- I worked
8 under Mr. Madison out of Lexington.

9 **Q. Did you have a pretty heavy workload?**

10 A. Senator, we had approximately 1,000 clients a year.
11 I think the AVA recommends 250 indictments. As you
12 know, every client has multiple -- or most clients
13 have multiple indictments. The caseload was
14 absolutely overwhelming. I was the only attorney.
15 I did all the juvenile defense in Magistrate Court,
16 Municipal Court, and General Sessions in three
17 counties. So yes, sir, it was overwhelming.

18 **Q. And what counties were those?**

19 A. McCormick, Saluda, and Edgefield Counties, sir.

20 **Q. All rural counties?**

21 A. Yes, sir.

22 **Q. And so in representing those juveniles during**
23 **that time, you come to the Family Court bench after**
24 **your other years after that and now you have**
25 **juveniles that come into your courtroom.**

1 A. Yes, sir.

2 Q. Do you think that you now have a perspective from
3 that representation as to how the court is handling
4 the juvenile cases in South Carolina and are you of
5 the belief that we need to have alternative
6 sentencing and those kinds of things to keep
7 children from being behind the fence?

8 A. Yes, sir. I do agree with that.

9 Q. Okay. And do you all have a program over in your
10 county that will offer some alternative sentencing
11 in issues as it relates to children?

12 A. Sort of like Drug Court?

13 Q. Yes, sir.

14 A. No, sir. We did before I started, but at this
15 stage, we do not. Myself and the other judges in
16 our circuit are currently trying to get the funding
17 to do that because I believe it's absolutely
18 necessary, as you indicated, to avoid an MEC
19 evaluation or a determined or indeterminate
20 sentence at the Department of Juvenile Justice.

21 Q. And when you were a Public Defender and you were
22 trying cases and there was a rush to the courtroom,
23 did you ever have an opportunity, without going
24 into names, did you ever have the opportunity to be
25 before a judge or anyone that was disrespectful to

1 you?

2 A. Yes, sir. Yes, sir, I have.

3 Q. And you remember how that felt?

4 A. I certainly do.

5 Q. And in knowing that, was that a good learning
6 experience for you as something that you would end
7 up taking to the bench and if you had not taken it
8 to the bench, that you will from now on?

9 A. Absolutely, Senator Malloy. As I indicated
10 earlier, I've been, just as I assume all attorneys
11 here, have been disrespected before at some stage.
12 It's embarrassing, not only for you as a
13 professional, but in front of your client as well.
14 I assured myself, when I started this, that I would
15 never intentionally be rude or disrespectful to any
16 lawyer or litigant for any reason.

17 Q. And when you were in the old Public Defender's
18 system, we had 39 non-profits that had no real
19 accountability and the Public Defenders were
20 overworked and were often times not as prepared as
21 they would like to have been whenever they would
22 get to court and they were not in charge of the
23 docket, yet still you would end up having to go
24 into court -- and I've been a witness as well, when
25 you were in front of a judge that could be a little

1 bit harsh and I just want to make sure that -- I
2 know that, in general, that would've had to happen
3 to you being a Public Defender and I just want to
4 make sure that if you had that feeling then, that
5 you carry that onto the bench so that those
6 individuals that will be before you would not make
7 you feel like what you obviously state that you
8 felt being a Public Defender. That's a terrible
9 question. It's long. It is long, but I just want
10 you to get the gist of what I'm trying to end up
11 saying.

12 A. Yes, sir. Yes, sir.

13 Q. I would go further as to saying is that the
14 temporary hearing process that you all have, do you
15 allow the lawyers to make comments and make
16 arguments in addition to the affidavits?

17 A. I do, Senator Malloy. I can't speak for all of my
18 colleagues, but I do know a number of them do not.
19 As you know, the rules don't require that we allow
20 arguments from counsel, but I do. My policy as I
21 call a case, ask each attorney to please submit the
22 documentation or affidavits that they intend on
23 submitting on behalf of their client and once they
24 hand those up, I'll ask the moving party's
25 attorney, ma'am or sir, do you have anything you'd

1 like to say on behalf of your client in regards to
2 the relief you're requesting today. And I'll
3 give Defendant's counsel an opportunity to make
4 comments as well in response to that. And then
5 once the Plaintiff's attorney and the Defendant's
6 attorney make their statements, I tell them please,
7 bear with me. Give me a few minutes. I'm going to
8 go back in my chambers and review your affidavits.
9 So that's a long answer, Senator Malloy, but yes,
10 sir, I do allow -- and quite frankly, often times
11 I'll allow the Plaintiff to respond to what the
12 Defendant's counsel said and then the Defendant's
13 counsel also another additional opportunity.
14 That's why sometimes it causes delays. In
15 Lexington County, we have temporaries scheduled
16 every 15 minutes. It could be from 9:30 to 1:00 or
17 1:00 to 5:00 and, as you know, Senator Malloy,
18 if you get behind on every 15 minutes, it's hard to
19 catch up. And we're under tremendous volume of
20 cases, not only in Lexington, but up in Greenville,
21 it's very busy. Charleston is very busy. York
22 County is very busy. It's just difficult to do,
23 but I still allow the lawyers to talk, yes, sir,
24 basically as long as they want to within reason.
25 **Q. Now, when you were in your course of being a Family**

1 Court judge, you'd carry on a full load. Do you
2 know approximately how many cases that you heard
3 during your first year?

4 A. No, sir.

5 Q. How many cases that you had before you?

6 A. No, sir. No, sir, I don't.

7 Q. And you work a full week?

8 A. Yes, sir.

9 Q. And your office is physically located where, in
10 what county?

11 A. I have an office in the McCormick County Courthouse
12 and also one in the Lexington County Courthouse.

13 Q. How far is that apart?

14 A. Sixty-two miles.

15 Q. And do you allow lawyers to come before you without
16 a scheduled hearing if they have an agreement?

17 A. Absolutely. Yes, sir.

18 Q. Do you do that in both counties?

19 A. Yes, sir, anywhere I am. If somebody calls
20 and says we want to work in an agreement on a trial
21 we've got scheduled I'll certainly do it.

22 Q. And I'm not going to get into the details, but I
23 think I was introduced to you during your last
24 election, probably by Representative Vick or
25 Senator O'Dell.

1 A. Yes, sir.

2 Q. That was correct?

3 A. Yes, sir.

4 Q. I recall that you and I had a long conversation
5 then about demeanor and temperament and respect and
6 that kind of thing as it relates to the court over
7 here and the court in the courthouse. Do you
8 remember that?

9 A. Yes, sir. Not vividly, Senator, but --

10 Q. And you had indicated then that you would work your
11 very best at doing that and continuing.

12 A. Yes, sir.

13 Q. And I would hope that going forward that this line
14 of questioning you've had, and this discussion,
15 wherever you are that you would be cognizant of
16 those discussions and the questions that you've
17 ended up having here today, okay?

18 A. Absolutely, Senator. Thank you.

19 CHAIRMAN CLEMMONS: Mr. Hitchcock, I
20 believe you had a question, sir.

21 (No response.)

22 CHAIRMAN CLEMMONS: Are there any other
23 questions?

24 (No response.)

25 CHAIRMAN CLEMMONS: Hearing none, Judge

1 Seigler, thank you for being with us and
2 responding to a difficult line of questioning.
3 We appreciate it. As you know, this record
4 will remain open until the report is
5 published. You possibly may be called back to
6 testify should that need arise. I will remind
7 you of the 48-hour rule. Whether there is a
8 finding today or not, the 48-hour rule
9 applies. If anybody should contact you about
10 reaching out to any member of the Commission
11 or any member of the General Assembly, please
12 advise them against that based upon the 48-
13 hour rule. We thank you for your service to
14 South Carolina and your desire to continue to
15 serve in the state. Thank you so much,
16 Judge Seigler.

17 JUDGE SEIGLER: And thank y'all for your
18 service, as well. I hope y'all have a good
19 day.

20 CHAIRMAN CLEMMONS: Thank you, sir.

21 JUDGE SEIGLER: Thank you.

22 (Candidate excused.)

23 CHAIRMAN CLEMMONS: Do we have a motion
24 for executive session?

25 MR. HITCHCOCK: So moved.

1 CHAIRMAN CLEMMONS: So ordered. Staff
2 and security, please secure the room.

3 (Off-the-record executive session.)

4 CHAIRMAN CLEMMONS: We're back on the
5 public record. We've just risen from
6 executive session to discuss qualifications.
7 No votes were taken. No decisions were made.
8 We now stand at ease for a five minute break.

9 (Off the record.)

10 CHAIRMAN CLEMMONS: Judge, we appreciate
11 you being with us today. Judge, would you
12 please raise your right hand and be sworn?

13 (The judge is sworn in.)

14 EXAMINATION

15 (By Chairman Clemmons)

16 **Q. Thank you, Judge. Judge, you gave us a very**
17 **detailed response to our personal data**
18 **questionnaire that we provided early in the**
19 **process. Have any conditions changed so that that**
20 **would warrant an amendment to that or is it**
21 **current and correct as it stands?**

22 **A.** It's relatively current. There has been a change
23 in -- I'm looking at Page 6 of the PDQ and that has
24 to do with the lawsuit in which I described as PCS
25 versus Ross Development Corporation.

1 **Q. Yes, sir.**

2 A. At the time that I submitted this in August of this
3 year, I was subject to a substantial judgment for
4 breach of fiduciary duty rising out of this CERCLA
5 litigation case in federal court. In August of
6 this year, a judge vacated that order and then
7 issued a new order, which we corrected in
8 September. The amount of the judgement was reduced
9 -- well, vacated the jury verdict on breach of
10 fiduciary duty, instituted a judgement as to all
11 shareholders of the corporation, of which I'm one.
12 So the current amount of the judgement is \$64,000.
13 This is for a violation of the Statute of
14 Elizabeth. The allegation being that we, as
15 directors, conveyed to shareholders funds when the
16 corporation was apparently insolvent.

17 **Q. Judge, we'll go into that --**

18 A. Okay.

19 **Q. -- in greater detail, but with regard to the**
20 **personal data questionnaire, as it was just orally**
21 **amended by you, are there any other changes, or --**

22 A. I don't believe so.

23 **Q. -- or amendments?**

24 A. No, sir.

25 **Q. Given that, do you have any objection to our**

1 including your responses, as now amended, to your
2 personal data questionnaire to be included in the
3 record of your sworn testimony?

4 A. That would be fine. Yes, sir.

5 CHAIRMAN CLEMMONS: Is there an objection
6 by any Commission member?

7 (No response.)

8 CHAIRMAN CLEMMONS: There being none, so
9 ordered.

10 [EXHIBIT 4, JUDICIAL MERIT SELECTION
11 COMMISSION PERSONAL DATA QUESTIONNAIRE FOR THE
12 HONORABLE MIKELL ROSS SCARBOROUGH, DATED
13 AUGUST 6TH, 2015, ADMITTED.]

14 CHAIRMAN CLEMMONS: Judge Scarborough,
15 this Commission has thoroughly investigated
16 your qualifications for continuation on the
17 bench. Our investigation has been focused on
18 the nine statutory evaluative criteria. As a
19 result of that process, we are here today and
20 there are no witnesses to testify other than
21 yourself and no affidavits have been filed
22 against your re-election. With that, we would
23 ask you to direct your attention to Mr.
24 Maldonado and respond to any questions he has.

25 JUDGE SCARBOROUGH: Thank you, sir.

1 MR. MALDONADO: Thank you, Mr. Chairman.

2 EXAMINATION

3 (By Mr. Maldonado)

4 **Q. Judge Scarborough, you have before you your sworn**
5 **statement you provided with detailed answers to**
6 **over 30 questions. Are there any amendments that**
7 **you would like to make at this time today?**

8 **A. No, sir. Not other than what I've already mention**
9 **to you.**

10 MR. MALDONADO: At this time, Mr.
11 Chairman, I would ask that Judge Scarborough's
12 sworn statement be entered into as an exhibit
13 to the hearing record.

14 CHAIRMAN CLEMMONS: Are there any
15 objections?

16 (No response.)

17 CHAIRMAN CLEMMONS: Hearing none, so
18 ordered.

19 [EXHIBIT 5, JUDICIAL MERIT SELECTION
20 COMMISSION SWORN STATEMENT FOR THE HONORABLE
21 MIKELL ROSS SCARBOROUGH, DATED AUGUST 6TH,
22 2015, ADMITTED.]

23 (By Mr. Maldonado)

24 **Q. Judge Scarborough, after serving almost 12 years as**
25 **a Master-in-Equity, why do want to continue to**

1 **serve?**

2 A. Well, I really love my job. I enjoy working for
3 the citizens of Charleston County. I enjoy what I
4 do. I find that I can help some people. There's
5 some people I've learned you just cannot help, but
6 I like what I do and I do it on a daily basis. I
7 look forward to going to work every day, to be
8 quite frank about it. It's just been a very
9 enjoyable experience for me.

10 **Q. Thank you. Although this has been covered in your**
11 **previous screenings, can you briefly explain to the**
12 **Commission, for the benefit of some of the**
13 **new members here, the circumstances regarding**
14 **your simple possession of marijuana charge and your**
15 **simple assault and battery?**

16 A. Sure. In 1980, when I was in college in Tennessee,
17 I was arrested and charged with simple possession
18 of marijuana. I pled guilty. I think that
19 the record was expunged, but one of the themes that
20 you'll see in my reports is I'm better off
21 disclosing something that happened than not
22 disclosing something. That was one of my
23 professors that taught me that in law school. John
24 Freeman always said disclose or abstain. So
25 disclose or abstain and so I've just disclosed that

1 stuff. In '88, I think, I got into a barroom brawl
2 with somebody and got arrested. That got dismissed
3 as well, eventually. Okay?

4 **Q. Thank you. The Commission received 436 ballot box**
5 **surveys regarding you, with 32 additional comments.**
6 **The surveys, for example, contained the following**
7 **positive comments. Judge Scarborough is an**
8 **outstanding jurist who is fair, pleasant, and**
9 **accurate. A super judge, we're lucky to have him**
10 **on the bench. Finally, another smart judge who is**
11 **prompt with his rulings and is decisive, a very**
12 **fine Master. Two of the written comments expressed**
13 **concerns. One comment indicated that you were**
14 **lazy and that you did not understand the law. What**
15 **response would you offer this concern?**

16 **A. Well, I don't always understand the law, but I seek**
17 **to learn what it is. I'm certain that was somebody**
18 **that I'd ruled against, otherwise, they wouldn't be**
19 **saying that. But as far as being lazy, I don't**
20 **know what the basis for that is. I try to be there**
21 **and spend my time and effort doing what I need to**
22 **do every day.**

23 **Q. Second concern indicated that you tend to play**
24 **home-field advantage to lawyers that frequently**
25 **appear before you and let those attorneys in a case**

1 **play too much of a role. What response would you**
2 **offer?**

3 A. Well, my response to that, Mr. Maldonado, is that
4 when I was a young lawyer, I often felt that way
5 myself and so I have tried to be conscientious not
6 to do that. And so rather than playing home-
7 field advantage, by virtue of the nature of the
8 legal affairs that I see, I get a substantial
9 number of lawyers coming in from Columbia because
10 that's where the foreclosure Bar is centrally
11 located. So I have to treat everybody, and I do
12 try to treat everybody the same, whether they're
13 from Greenville or Columbia or Florence or
14 Charleston.

15 **Q. As you have already mentioned in the beginning, and**
16 **also in your PDQ, you have a lawsuit that was**
17 **filed against you in the U. S. District Court by**
18 **PCS Nitrogen, Incorporated. Can you please explain**
19 **the nature and the disposition of that lawsuit?**

20 A. Well, the genesis of the lawsuit is what we refer
21 to as CERCLA liability, which is Contamination
22 Environmental Remediation Clean-up Act. The
23 factual basis for it is there was some property my
24 family owned up until 1966 when we sold the
25 property. I was seven years of age. In 1980,

1 CERCLA legislation was passed by Congress. The
2 courts have determined that environmental
3 contamination is an ongoing tort for which there is
4 essentially strict liability. If you own the
5 property, you're going to have to pay. In 2006, we
6 closed the family corporation, which was the
7 successor and interest to what was then called
8 Planters Fertilizer and Phosphate Company.
9 After we closed the family business, --

10 **Q. Just to clarify, when you say we, who is --**

11 A. I'm just talking about the board. I was a board
12 member. I was president from '93 until, I believe,
13 2001. I remained on the board. When I went on the
14 bench, I was not particularly active. I was
15 neither president nor vice president, but I did
16 remain on the board. I think if I'd have known
17 then what I know now about CERCLA liability, I
18 probably would have never gotten on that family
19 board. But with families being what they are, you
20 do what you can to try and help people out.
21 So anyway, 2006 we were brought into the CERCLA
22 litigation. In, I believe, early 2009 the verdict
23 was rendered that the corporation was going to 45
24 percent liable for the clean-up costs. We didn't
25 know what the clean-up costs were. As I said

1 earlier today before you, I still don't know what
2 the clean-up costs are. But in late 2009 PCS,
3 which is the world's largest nitrogen and
4 fertilizer company out of Saskatchewan, Canada
5 filed suit against me and the other directors and
6 shareholders and that case went to trial in July of
7 2014 in U. S. District Court in Charleston, the
8 result of which was very disconcerting.

9 That was a five and a half million dollar
10 judgment against the directors. The amount has
11 nothing to do with the clean-up costs. The amount
12 was every penny that the corporation had paid out
13 to its shareholders. Up until the time of that
14 trial, I thought the corporate directors fiduciary
15 duty was to the shareholders, not to some unknown
16 creditor which we didn't know existed until after,
17 in fact, we'd closed the doors of the corporation,
18 but Judge Seymour saw that differently.

19 That's been a ruling. She has, since the
20 initial ruling in -- she didn't enter the order
21 until February of this year. February of 2015, she
22 did enter the order as to both the shareholders
23 and the directors. The directors, again, was
24 on breach of fiduciary duties. The shareholders
25 was on receiving these distributions. In August of

1 this year, she reversed her position, vacated the
2 verdict, and then reinstated against the directors
3 and the shareholders the amounts that they received
4 in contributions -- in distributions from the
5 corporation for the sale of -- was basically a
6 real estate holding company, sale of real estate
7 over that time period.

8 So, as it stands today, the case is on appeal,
9 but it's stayed pending another post-trial motion
10 before her from PCS on the vacating of the five
11 point five million dollar verdict.

12 **Q. I believe you have a written explanation, also,**
13 **that you'd like to provide?**

14 A. I do. First, I've got from -- I submitted to you
15 yesterday -- I don't know if the committee has
16 gotten it. I've got an original letter from my
17 attorney who's Trenholm Walker from the Pratt-
18 Thomas Firm in Charleston. So I'd like to present
19 his letter. This is an eight page letter that he
20 wrote, trying to describe, in detail, what happened
21 in that case. Mr. Clemmons, I'm not sure how to
22 present that to you, but.

23 CHAIRMAN CLEMMONS: Would any member have
24 an objection for the documents just mentioned
25 to be received into the record along with a

1 copy of the order? Is there any objections
2 here?

3 SENATOR MALLOY: Mr. Chairman.

4 CHAIRMAN CLEMMONS: Senator Malloy.

5 SENATOR MALLOY: I think that letters --
6 we can receive those as -- my view would be
7 received as information because we don't get a
8 chance to talk to Mr. -- to the lawyer.

9 SENATOR CAMPSER: Walker, Trenholm
10 Walker.

11 SENATOR MALLOY: Right.

12 JUDGE SCARBOROUGH: I will say this. I
13 brought with me today Mr. John Linton, Jr.
14 He's an associate with the firm. So he's here
15 and he might could answer some questions if
16 you've got questions of Mr. Linton. This just
17 came Monday, so first I heard of it.

18 SENATOR MARTIN: It is certainly
19 explanatory and it illuminates his side of the
20 issue very well.

21 CHAIRMAN CLEMMONS: There being no
22 objection, then the documents are received as
23 an exhibit to the record. Is that one letter?

24 JUDGE SCARBOROUGH: Just one letter. I
25 know I submitted it yesterday by email. It

1 should be an eight page letter. This is the
2 original.

3 CHAIRMAN CLEMMONS: It's the eight page
4 letter from Trenholm Walker; is that correct?

5 JUDGE SCARBOROUGH: Yes, sir.

6 CHAIRMAN CLEMMONS: An eight page
7 letter from Trenholm Walker?

8 JUDGE SCARBOROUGH: Yes.

9 CHAIRMAN CLEMMONS: The eight page letter
10 from Trenholm Walker is admitted as an exhibit
11 to the record, along with a copy of the order.

12 [EXHIBIT 6, LETTER 11/19/15 TRENHOLM
13 WALKER TO JUDICIAL MERIT SELECTION COMMITTEE,
14 ADMITTED.]

15 [EXHIBIT 7, AMENDED FINDINGS OF FACT AND
16 CONCLUSION OF LAW, DATED SEPTEMBER 22, 2015,
17 ADMITTED.]

18 CHAIRMAN CLEMMONS: Go ahead, please,
19 counsel.

20 MR. MALDONADO: Thank you.

21 (By Mr. Maldonado)

22 **Q. And just for the record, the letter establishes**
23 **your position with regards to the lawsuit and your**
24 **explanation of the situation surrounding the**
25 **lawsuit?**

1 A. Yes, sir. I'm happy to answer any questions
2 anybody may have, but that's my counsel's position
3 on that.

4 CHAIRMAN CLEMMONS: We'll get there in
5 just a few minutes. Thank you.

6 **Q. I'll finish up with some housekeeping issues before**
7 **members are going to question you. Have you sought**
8 **or received a pledge of any legislator prior to**
9 **this date?**

10 A. No, sir.

11 **Q. Have you sought or have you been offered a**
12 **conditional pledge of support of any legislator**
13 **pending the outcome of your screening?**

14 A. No, sir.

15 **Q. Have you asked any third parties to contact members**
16 **of the General Assembly on your behalf?**

17 A. No, sir.

18 **Q. Are you aware of anyone attempting to intervene in**
19 **any part of the process on your behalf?**

20 A. No. I am not.

21 **Q. Have you contacted any members of this Commission?**

22 A. I have not.

23 **Q. Do you understand that you are prohibited from**
24 **seeking a pledge or commitment until 48 hours after**
25 **the formal release of the Commission's report?**

1 A. I do.

2 Q. Have you reviewed the Commission's guidelines on
3 pledging?

4 A. I have.

5 Q. As a follow-up, are you aware of the penalties for
6 violating the pledging rules, that is, it is a
7 misdemeanor and upon conviction the violator must
8 not be fined more than \$1,000 or imprisoned not
9 more than 90 days?

10 A. I am.

11 MR. MALDONADO: I would note that the
12 Lowcountry Citizens Committee found that Judge
13 Scarborough was qualified as to the
14 constitutional qualifications, physical health
15 and mental stability. He was found well
16 qualified as to ethical fitness, professional
17 and academic ability, character, reputation,
18 experience, and judicial temperament. I would
19 note for the record that any concerns raised
20 during the investigation regarding the
21 candidate were incorporated into the
22 questioning of the candidate today.

23 CHAIRMAN CLEMMONS: Thank you, Mr.
24 Maldonado. Are there any questions by
25 Commission members for Judge Scarborough?

1 SENATOR MALLOY: I have a question.

2 CHAIRMAN CLEMMONS: Senator Malloy.

3 SENATOR MALLOY: Thank you, Mr. Chairman.

4 EXAMINATION

5 (By Senator Malloy)

6 Q. Judge Scarborough, thank you for coming before the
7 committee and thank you for your service that
8 you've had for a period of time. My questioning
9 goes into a -- so being a Master, this is a full-
10 time position for you, correct?

11 A. It is. Yes, sir.

12 Q. And in your capacity as being a Master, do you have
13 a lot of partition actions that will come before
14 you?

15 A. Yes.

16 Q. And you're familiar with heir property?

17 A. Very much so.

18 Q. And that kind of thing?

19 A. Yes.

20 Q. Have you followed the legislation that we've had
21 over here on heirs property?

22 A. The current pending legislation or what was passed
23 in 2006?

24 Q. Both. Obviously the one in 2006 is the one that
25 you adhered to?

1 A. Correct. It is.

2 **Q. Have you been following the one that we had here?**
3 **3225, I think it is, of the heirs property that**
4 **we're discussing now?**

5 A. I have reviewed it. Not recently, but I have
6 reviewed it. Yes, sir.

7 **Q. And so whenever you say that a lot of those cases**
8 **come before you, tell us about what percentage of**
9 **those that would go to a forced sale; do you know?**

10 A. Very few will go to a forced sale, in my opinion.
11 Senator Malloy, I would have to tell you that
12 probably since the 2009 economic debacle, I've had
13 very few of these cases even come in my courtroom.
14 Typically, now what I'm seeing is much more quiet
15 titles than partitions. Partitions, the goal --
16 the law is a three ranking order.

17 First and foremost is if you're going to
18 partition, than you partition in common, divide the
19 property amongst the family. That is always the
20 first goal if there's enough land and not so many
21 heirs that you can't do it. The second one is an
22 allotment. An allotment is where we try to get one
23 family member to perhaps buy out the interest of
24 the other family members. That keeps the property
25 in the family and then finally, you've got the

1 partition by sale. It is my practice, generally,
2 to try and have a partition by private sale, again,
3 some member of the family and/or the general
4 public, if they can all come together on that.

5 **Q. And that goes to my question. I was trying to see**
6 **if the partition actions that we have when you**
7 **divide the property by allotment or in kind instead**
8 **of putting it up for sale in order to keep it into**
9 **the family whenever you could.**

10 A. Many more. I'd say easily 75, 80 percent of them
11 are divided amongst the family in some fashion or
12 another.

13 **Q. Do you think that their having a separate partition**
14 **procedure will be helpful in dealing with the heirs**
15 **property or do you think that would be more**
16 **confusing?**

17 A. No. In fact, the way I do this typically, it comes
18 in as a quiet title action. You've got to
19 figure out who owns the property and go to the
20 quiet title. I, invariably, bifurcate my hearings.
21 I do the quiet title hearings. I issue the order.
22 I determine who is going to be in the case and I
23 generally add a line and say "All right, the
24 partition hearing is going to take place at
25 such and such a date." So that when notice and

1 service of the order is rendered under quiet title,
2 they know that there's going to be a subsequent
3 hearing on partition alone. I don't like doing
4 them together because I find that it creates more
5 problems than it solves.

6 **Q. And do you often times have to appoint an appraiser**
7 **because I know that sort of drives up the cost and**
8 **sometimes on most of those actions, they'll**
9 **have folks that will do agreed upon the appraised**
10 **values?**

11 A. Appraised values are usually not agreed upon. It
12 depends on the family and the nature of the
13 argument. But as a general rule, I find that each
14 side can get their own appraisal and only when I'm
15 asked to get a third appraiser do I need to do that
16 and, again, that's in a much smaller number of
17 cases.

18 **Q. And you see where I'm going. The thing is that**
19 **some folks think that it's a bit optimistic to try**
20 **to address the issue of heirs property over here,**
21 **but I have an interest in doing that. I**
22 **always like to ask a Master every time I get an**
23 **opportunity to your thought process. As we go**
24 **forward, I hope that you'll be involved in that**
25 **process because I am interested in how they happen**

1 **now in their courtrooms and then how we think that**
2 **procedure could end up making it better so it'll be**
3 **fair to our citizens.**

4 A. Glad to do it. You've got a bunch of Master's
5 sitting back there in that room.

6 CHAIRMAN CLEMMONS: Thank you, Senator
7 Malloy. Representative Mack.

8 MR. MACK: Thank you, Mr. Chairman.
9 Judge Scarborough, good to see you. I just
10 wanted to say for the record, you've served
11 our community well in Charleston and you're
12 well thought of and have gotten a lot of good
13 comments from folks that have gone through the
14 process.

15 JUDGE SCARBOROUGH: Thank you, sir.

16 CHAIRMAN CLEMMONS: Ms. Wall.

17 MS. WALL: Thank you, Mr. Chairman.

18 (By Ms. Wall)

19 **Q. Judge Scarborough, how do you address the concern**
20 **that may be out there based on what is currently**
21 **Judge Seymour's finding that a fraudulent**
22 **conveyance occurred when these distributions or the**
23 **distributions she concluded constituted fraudulent**
24 **conveyance? And the fact that as Master, you are**
25 **daily or weekly -- in your work -- you deal with**

1 the issue of fraudulent conveyances? The fact that
2 you are now a party to a serious lawsuit that has
3 that as a central issue. Address for this
4 Commission, please, how your involvement in the
5 lawsuit may or may not affect your approach to
6 cases in which you are not a party, but you are the
7 judge making determinations concerning fraudulent
8 conveyance.

9 A. I think that's clearly a very valid question. Let
10 me start here. The Statute of Elizabeth, which is
11 what this judgment is rendered under, is not the
12 type of fraud that I generally think about when I
13 think about civil fraud. It doesn't have anything
14 to do with the nine elements of fraud in an attempt
15 to deceive. In the facts of this case, we had the
16 benefit of a Monday morning quarterback in looking
17 at what happened during the course of time that
18 we were running the corporation.

19 It was the testimony of the expert witness
20 was that we were insolvent at all times -- all
21 times, despite the fact that we had over a million
22 dollars in the bank. That's based upon the
23 projected costs to clean up the property. So my
24 first resolution is, realistically, you only know
25 about creditors when you know about creditors. I

1 didn't know about this particular creditor. When
2 someone comes to me in my courtroom and they're
3 asking to disgorge or reclaim clawback -- let's say
4 distributions, I'm generally looking at the facts
5 of the case to see whether or not there's proof
6 that it was there. And did they have knowledge,
7 were they on notice, and did they continue to do
8 something they should not have done. I think
9 that's the standard. Had I been a judge on this
10 one, I think I would have ruled differently, but
11 that's just me and the standard of law.

12 The other thing that I think is significant
13 about this case is there was a burden shifting.
14 The plaintiff didn't have to prove the violation of
15 the Statute of Elizabeth. The court found because
16 it was a family corporation that the burden was on
17 the defendants to disprove the violation.

18 The only case law that I'm aware of that talks
19 about that involves a husband and wife corporation
20 because there were two people, a small closely held
21 corporation, but this was a C corporation with over
22 70 shareholders. So I just don't think it fits
23 into that criteria, but again, that's my legal
24 position.

25 Back to the appearance, I think that's really

1 what you're getting at. I think the appearance is,
2 you know, it has brought to light for me something
3 which I never ever thought about until this jury
4 verdict came down and that was how you provide for
5 an unknown creditor. I don't know the answer to
6 that question. I'm telling you, we did not know
7 about this creditor until the claim was made. I'm
8 usually looking for proof. I'm usually looking for
9 the plaintiff to have the burden of proof, the
10 plaintiff to prove that the violations were
11 unlawful, an attempt to hinder, delay, or defraud
12 creditors. That's what I'm looking for.

13 There are cases in which the presumption is if
14 it's a closely held corporation, or husband and
15 wife corporation, that they would've talked about
16 that and not done it in some sort of, you know,
17 board meeting for which they have minutes. In our
18 instance, we always had board minutes. We always
19 had meetings and everything was of record, so.

20 **Q. Maybe I should be a little bit more direct in my**
21 **question and that is this. Having gone through**
22 **this, and it's an ongoing process, will this affect**
23 **your ability to be fair and impartial, apply the**
24 **law to matters that appear before your court that**
25 **involve a claim of fraudulent conveyance?**

1 A. It would be my position that I can still be
2 fair and impartial and I'm going to decide whatever
3 cases come up to me in the same fashion
4 I've decided them before, based on whatever's
5 presented to me. Fair and impartial and based upon
6 the law as I understand it to be. I can tell you
7 there was a light went off in this particular case
8 when the jury came back. I can assure you and that
9 was how did we get to this point. I mean, how did
10 this happen. It was novel for me.

EXAMINATION

12 (By Chairman Clemmons)

13 **Q. Judge Scarborough, do you have any policy in your**
14 **office with regard to how long is acceptable or**
15 **unacceptable between final hearing and an order in**
16 **foreclosure?**

17 A. Yes, sir, Mr. Chairman. It's my practice, if I
18 can, if I'm clear on the facts and I'm clear on the
19 law, I will rule from the bench every chance I get.
20 I did that just yesterday in a case. It was a
21 tough case, relatively novel, but I was able to get
22 pre-trial briefs and study the law before the case
23 and then listen to the facts and rule. If I'm not
24 clear on the facts, and I'm not clear on the law,
25 one or the other, it's my practice to request

1 proposed orders from each side and I generally give
2 30 days for that to happen. And then I tell the
3 lawyers that I'm going to give you a response
4 within 30 days. So that is my practice to do that.
5 So I'm trying to get answers out, clearly, within
6 60 days if it's something I need to take under
7 advisement.

8 **Q. Would you be surprised if you were to learn that**
9 **there is at least one matter where a final hearing**
10 **was held when proposed orders were sent to you and**
11 **it's been more than a year and no order yet?**

12 A. They're still waiting on an order?

13 **Q. Yes, sir.**

14 A. There probably are a case or two like that. I
15 couldn't even tell you what they are at this point
16 in time, but if I'm sitting on orders, it's not my
17 practice to hold them to that length of time.

18 **Q. If, as you say, there probably are, would you not**
19 **want to take the necessary action to dispose of**
20 **those matters?**

21 A. Absolutely. Absolutely.

22 **Q. If it required a new hearing or a change in orders**

23 --

24 A. I'm not aware of the particular case in which you
25 refer to, but I will definitely go back to my

1 office and look for that today if I'm sitting on
2 something that's been over a year because that is
3 too much time. I agree with that. Some of these
4 cases are harder than others. Most of the time,
5 the cases that last and linger in my courtroom, I'm
6 usually sending the lawyers back to go do some
7 homework, typically get an appraisal, get a survey
8 of property if that's what the case is all about.

9 **Q. I would encourage you to stay closely in tuned to**
10 **those time ones. It makes a real difference to**
11 **people on both sides, plaintiff and defendant.**

12 **A. Yes, sir.**

13 CHAIRMAN CLEMMONS: Thank you very much.
14 Dean Wilcox.

15 DEAN WILCOX: Thank you, Mr. Chairman.
16 First, I need to disclose on the record that I
17 have known Judge Scarborough for a long time.
18 In fact, he worked for and with, I believe is
19 the right way, my brother-in-law, Gordon
20 Garrett back in the 1990's in North
21 Charleston.

22 EXAMINATION

23 (By Dean Wilcox)

24 **Q. Judge, the distributions that came out of the**
25 **family business, was that a series of distributions**

1 **over time or was it a single distribution?**

2 A. No. No. It was a series over time. Absolutely.

3 **Q. And I gather a key piece of evidence is this**
4 **telephone message that was left from Ms. Rike is**
5 **it, I believe?**

6 A. She's a cousin. Yes, sir.

7 **Q. Did the distributions occur both before and after**
8 **that time?**

9 A. Yes.

10 **Q. Was there any pattern of acceleration in the rate**
11 **of distribution after that time?**

12 A. No, sir. The only time that the judge made a
13 lot of hay about the fact that after that telephone
14 message was left, there were two distributions that
15 year and then there were two distributions in the
16 final year, 2006. What was going on in 1998 to
17 1999 was the real estate market was really hot and
18 we were selling property faster than we'd ever sold
19 it before. So as money came in, we would take a
20 little bit of the bank balances and then we would
21 make distributions to the shareholders, again,
22 paying any creditors that we knew about and then
23 distributing the funds. So '98 and '99 were really
24 high market years for the real estate business and
25 then in 2006, what we were clearly looking to do

1 was to close the corporation.

2 It was one distribution, I believe, in the
3 spring and then, if memory serves me right,
4 our final meeting as a board was in July that year.
5 And at that time, having approved the final
6 distribution, we moved whatever money was left over
7 after creditors and said that money's got to go out
8 to the shareholders. It was like \$30,000 amongst
9 70 shareholders. Thirty-six thousand shares -- it
10 was something -- it was pennies on a dollar.

11 **Q. And I don't want to ask you a question that,**
12 **because this is still in litigation, is**
13 **inappropriate. So if it's something you cannot**
14 **answer, tell me. Do you know at what point in time**
15 **or do you recall when you became aware of this**
16 **message that supposedly said something along the**
17 **lines of let's liquidate?**

18 A. It was presented to me in my first deposition. I
19 had two depositions taken and it was sometime in
20 January of '10, I think it was -- 2010.

21 **Q. So it was not a message directed to you that you**
22 **got at the time it occurred?**

23 A. The message was directed to cousin Heyward Carter,
24 who is a tax lawyer in Charleston, and Heyward did
25 not receive the message. It went into an email

1 correspondence and dropped into a spot.

2 Q. In the judge's ruling, and I can tell you it's page
3 45 of the copy I have. The judge finds "Ross
4 Director Rike called her fellow directors Carter
5 and Scarborough to communicate that her thoughts
6 were to completely drain all the accounts." You
7 disagree with the "and Scarborough" on that?

8 A. I did not get -- I did not get that message.

9 Q. Okay. That's what I wanted to clarify because I
10 know in the letter from your counsel, he said,
11 "There's no proof remotely suggesting that Judge
12 Scarborough was aware of these events." And I just
13 wanted to clarify that with -- your statement is
14 that you did not get that message from Ms. Rike in
15 1999?

16 A. Had I gotten that message, I would've told her
17 that's not how we do business. Had I gotten that
18 message. That's not the way we would operate.

19 DEAN WILCOX: Okay. Those are my
20 questions. Mr Chairman, thank you.

21 CHAIRMAN CLEMMONS: Thank you, Dean
22 Wilcox. Any other questions?

23 (No response.)

24 CHAIRMAN CLEMMONS: Hearing none. Judge
25 Scarborough, we want to thank you for being

1 with us today and for your forthright answers
2 to questions that have been put to you. That
3 will conclude this portion of the screening
4 process. As you know, the record will remain
5 open until the report is published. You could
6 be called back prior to that time if such need
7 should arise. We, again, are grateful for
8 your service to South Carolina and for being
9 with us today.

10 JUDGE SCARBOROUGH: Thank you. Thank you
11 very much.

12 CHAIRMAN CLEMMONS: Senator Campsen moves
13 that we move into executive session and so
14 ordered. Could security and staff please
15 secure the room and turn off the microphone?

16 (Off-the-record executive session.)

17 CHAIRMAN CLEMMONS: We are rising from
18 executive session and are back on the public
19 record. We discussed qualifications of
20 Judge Scarborough and took no vote, made no
21 decisions. However, we are now prepared to
22 take a vote with regard to qualification. So
23 those that would find Judge Scarborough -- we
24 have a motion by Senator Campsen that we find
25 Judge Scarborough qualified and seconded by

1 Senator Malloy. All those in favor, please
2 raise your hand.

3 (Commission members vote.)

4 CHAIRMAN CLEMMONS: Thank you. Those
5 opposed, please raise your hand.

6 (Commission members vote.)

7 CHAIRMAN CLEMMONS: By acclamation, Judge
8 Scarborough is found qualified. Moving on,
9 let's bring in our next judge candidate,
10 please.

11 MS. WALL: This is Judge White.

12 SENATOR MALLOY: Can we let the record
13 reflect that I jumped the gun. Representative
14 Mack wanted to second that motion.

15 CHAIRMAN CLEMMONS: Excuse us, Judge
16 White. We have a little matter of business to
17 take care of. With regard to the last vote,
18 Judge Malloy seconded the motion of Senator
19 Campsen in the last vote. Representative
20 David Mack seconds the motion of Senator
21 Campsen. And let's, again, show by raised
22 hands those who are in favor of the motion.

23 (Commission members vote.)

24 CHAIRMAN CLEMMONS: Thank you. Those
25 opposed?

1 (No response.)

2 CHAIRMAN CLEMMONS: Again, the result is
3 the same. By acclamation upon motion of
4 Senator Campsen, as seconded by Representative
5 Mack, Judge Scarborough is now qualified.
6 Thank you very much. Judge White, thank you
7 so much for being with us today.

8 JUDGE WHITE: Certainly.

9 CHAIRMAN CLEMMONS: Thank you also for
10 your patience.

11 DEAN WILCOX: Mostly for your patience.

12 JUDGE WHITE: I'd like to tell you my
13 middle name is Job, but I can't.

14 CHAIRMAN CLEMMONS: Many of us should
15 share that name today. We have before us The
16 Honorable Thomas H. White, IV, Family Court,
17 16th Judicial Circuit, Seat 1. Judge White,
18 can you kindly raise your right hand and be
19 sworn?

20 (The judge is sworn in.)

21 CHAIRMAN CLEMMONS: Thank you very much.

22 EXAMINATION

23 (By Chairman Clemmons)

24 **Q. Judge, you've provided this Commission with very**
25 **detailed responses to your personal data**

1 **questionnaire. Are those responses current and**
2 **correct today?**

3 A. Yes, sir. They are.

4 **Q. Thank you. Would you have any objection to us**
5 **including those responses as an exhibit to your**
6 **sworn testimony?**

7 A. No objection, Mr. Chairman.

8 **Q. Thank you.**

9 CHAIRMAN CLEMMONS: Is there an objection
10 by any Commission member?

11 (No response.)

12 CHAIRMAN CLEMMONS: Hearing none, so
13 ordered.

14 [EXHIBIT 8, JUDICIAL MERIT SELECTION
15 COMMISSION PERSONAL DATA QUESTIONNAIRE FOR THE
16 HONORABLE THOMAS H. WHITE, DATED JULY 24TH,
17 2015, ADMITTED.]

18 CHAIRMAN CLEMMONS: Judge, this
19 Commission has thoroughly investigated your
20 qualifications for continuation on the bench.
21 We have focused our inquiry upon the nine
22 evaluative criteria set out by law in South
23 Carolina. We received no affidavits file in
24 opposition to your election, nor are there any
25 witnesses present today to testify other than

1 yourself. We would ask that you turn your
2 attention to Mr. Maldonado and respond to any
3 questions he may have. Thank you.

4 MR. MALDONADO: Thank you, Mr. Chairman
5 and members of the Commission.

6 EXAMINATION

7 (By Mr. Maldonado)

8 **Q. Judge White, you have before you the sworn**
9 **statement you provided with detailed answers to**
10 **over 30 questions. Are there any amendments that**
11 **you'd like to make at this time to that statement?**

12 A. No, sir.

13 **Q. Can you please state for the record the city and**
14 **circuit in which you reside?**

15 A. I live in Union, South Carolina and I'm the 16th
16 Judicial Circuit.

17 MR. MALDONADO: At this time,
18 Mr. Chairman, I'd ask that Judge White's sworn
19 statement be entered as an exhibit.

20 CHAIRMAN CLEMMONS: Is there any
21 objection?

22 (No response.)

23 CHAIRMAN CLEMMONS: Without objection, so
24 ordered.

25 [EXHIBIT 9, JUDICIAL MERIT SELECTION

1 COMMISSION SWORN STATEMENT FOR THE HONORABLE
2 THOMAS H. WHITE, IV, DATED JULY 23RD, 2015,
3 ADMITTED.]

4 (By Mr. Maldonado)

5 **Q. Judge White, why do you want to continue serving as**
6 **a family court judge?**

7 A. Well, as I said in my personal statement, I've
8 always, in my 30 years of practice and even before
9 I became an attorney, I've always enjoyed a good
10 challenge. I think challenges help you grow as
11 individuals and I can say that anyone who's seeking
12 a challenge, they need to be a family court judge
13 because every day you're dealing with challenges of
14 many different varieties and I feel that I have
15 grown. There was some transition from being an
16 advocate to being an arbiter, but I feel that I've
17 grown in this position. I feel that I certainly
18 enjoyed figuring out better ways to render justice
19 in a fair and impartial manner and I just look
20 forward to the opportunity to continue to do so.

21 **Q. Thank you. Judge White, the Commission received**
22 **134 ballot box surveys regarding you with four**
23 **additional comments. The surveys, for example,**
24 **contained the following positive comments. Judge**
25 **White is an excellent judge of the highest personal**

1 integrity, and pleasant, and professional
2 temperament, excellent knowledge of the law.
3 Finally, excellent person, excellent judge. One of
4 the written comments expressed concerns. The
5 comment indicated that you talk too much, play
6 favorites, and bring too much bias to the bench.
7 What response would you offer this concern?

8 A. Well, I was a little perplexed when you had advised
9 me of that response. I maybe do talk too much. I
10 don't know. I come from a long line of relatively
11 loquacious folks. Storytelling has always been
12 kind of a part of my background.

13 However, what concerned me about that was I
14 don't think if you pulled transcripts of every
15 hearing I've ever had, I don't think you would've
16 heard me doing that on the record. So that
17 concerned me a bit because I just don't know who
18 that may have been, in any way, shape, or form.

19 Second, as far as bias and impartiality,
20 honestly that concerns me and I have to recall a
21 circumstance of one of my partners stories before I
22 was elected to the bench. He indicated he had gone
23 to a roster meeting, I believe in Spartanburg
24 County, and some of the lawyers there when it was
25 imminent that I was going to be elected to the

1 position, they said, "Well, we guess that you're
2 going to be pushing your chest out and you and
3 Sammy are going to be going around talking about
4 what wonderful home cooking you're going to get
5 when Tom is on the bench. And my former partner
6 just looked at them and said, "Well, you don't know
7 Tom very well, do you?"

8 So I honestly can assure this Commission that
9 I am impartial. I do not play favorites in any
10 way, shape, or form. I, you know, quite frankly,
11 would simply think that that comment may have come
12 from someone who just simply didn't like a ruling
13 that I made. But I certainly want to earn the
14 respect of each and every person who may even say a
15 negative comment, but I'm going to be myself and
16 I'm going to act the way that I know how to act and
17 that's fair and impartial and be courteous to all
18 who appear before me.

19 **Q. Judge White, you've indicated in your PDQ that a**
20 **lawsuit was filed against you in 2009 by Douglas**
21 **and Virginia Braun. Can you please explain the**
22 **nature and disposition of that lawsuit?**

23 A. Yes. That was a situation when I was in general
24 practice. One of the realtors who had used our
25 firm before had come to me and asked if I could do

1 a quick title examination for some folks who were
2 buying a home in a residential neighborhood. I did
3 that title examination. I provided closing
4 services in that, including providing them with
5 copies of restrictive and protective covenants for
6 that particular neighborhood.

7 The matter ended up -- and I did not know, I
8 thought it was just a pure residential transaction.
9 This lady wanted to put in a daycare in the
10 neighborhood. I was not advised of their desire of
11 putting a daycare in their home in the
12 neighborhood. I provided them with the
13 restrictions and protective covenant. I did not go
14 into any great detail about them, but I provided
15 copies. And when she started setting up for her
16 daycare services, some neighbors shut her down and
17 she then filed suit against the realty company, the
18 City of Union, and me as the closing attorney. The
19 matter was dismissed against me on summary
20 judgment.

21 **Q. Thank you. I'll finish up with some housekeeping**
22 **issues. Have you ever sought or received any**
23 **pledge of any legislator prior to this date?**

24 **A. No, sir.**

25 **Q. Have you sought or been offered a conditional**

1 pledge of support of any legislator pending the
2 outcome of your screening?

3 A. No, sir.

4 Q. Have you asked any third parties to contact members
5 of the General Assembly on your behalf?

6 A. No, sir.

7 Q. Are you aware of anyone attempting to intervene in
8 the process on your behalf?

9 A. I am not aware of anything of that nature.

10 Q. Have you contacted any members of this Commission?

11 A. I have not.

12 Q. Do you understand that you are prohibited from
13 seeking a pledge or commitment until 48 hours after
14 the formal release of the Commission's report?

15 A. Yes, sir.

16 Q. Have you reviewed the Commission's guidelines on
17 pledging?

18 A. I have. Yes, sir.

19 Q. As a follow-up, are you aware of the penalties for
20 violating the pledging rules, that is, it's a
21 misdemeanor and upon conviction the violator must
22 be fined not more than \$1,000 or imprisonment of
23 not more than 90 days?

24 A. I am aware of that. Yes, sir.

25 MR. MALDONADO: I would note that the

1 Upstate Citizens Committee reported that Judge
2 White is qualified as to the constitutional
3 qualifications, physical health, and mental
4 stability. He was found well-qualified as to
5 ethical fitness, professional and academic
6 ability, character, reputation, experience,
7 and judicial temperament. I would note for
8 the record that any concern that was raised
9 during the investigation regarding this
10 candidate was incorporated in the questioning
11 of this candidate today. I have no further
12 questions.

13 CHAIRMAN CLEMMONS: Thank you, Mr.
14 Maldonado. Do the Commission members have
15 questions?

16 SENATOR MARTIN: Mr. Chairman, I've got a
17 comment.

18 CHAIRMAN CLEMMONS: Senator Martin is
19 recognized.

20 SENATOR MARTIN: Judge, I noticed from
21 your biography you were a walk-on at Clemson
22 in both football and baseball.

23 JUDGE WHITE: Yes, sir.

24 SENATOR MARTIN: Congratulations.

25 JUDGE WHITE: Well, thank you. It

1 also was put on there that I walked off.

2 SENATOR MARTIN: I wasn't going to bring
3 that up. I think the fact that you just tried
4 out was good.

5 JUDGE WHITE: Well, I had some success
6 with both, but by the time -- as far as the
7 baseball team was concerned, former Governor
8 Beasley and I were good friends and --

9 SENATOR MARTIN: How fast did you run, by
10 the way?

11 JUDGE WHITE: Not nearly as fast as
12 David, but I told him once when he was telling
13 people at law school one day in the lobby, he
14 had indicated to them that he had to make a
15 decision between major league baseball and
16 politics and I stopped and I said, "Well,
17 David, I said, that's interesting. I said I
18 believe that Coach Bill Wilhelm made that
19 decision for both of us." But anyway, thank
20 you, Senator Martin.

21 SENATOR MARTIN: Very well spoken.

22 SENATOR CAMPSER: At least you walked off
23 and were not carried off.

24 JUDGE WHITE: I take some solace in that,
25 Senator. I do.

1 SENATOR MARTIN: Thank you, judge.

2 SENATOR MALLOY: Mr. Chair.

3 CHAIRMAN CLEMMONS: Senator Malloy is
4 recognized.

5 SENATOR MALLOY: Being a Senator from
6 Darlington and with the former governor being
7 one of my constituents, I appreciate your
8 relationship with him. He's also a friend of
9 mine. I also appreciate your candor in your
10 PDQ saying that you served without
11 distinction. Most people would fail to admit
12 and a lot of times the story grows as we grow
13 older as opposed to stories being further
14 validated. So I think if we look back, I
15 think that the record will be void of a
16 person's name that may would say without
17 distinction whenever they said it and so that
18 adds to your credibility. I can tell you
19 that for certain.

20 JUDGE WHITE: Thank you, Senator.

21 SENATOR CAMPSEN: Senator, I beg to
22 differ that with time, instead of growing some
23 people's hundred meter diminishes over time
24 instead of grows.

25 JUDGE WHITE: I'll make a further comment

1 about that.

2 CHAIRMAN CLEMMONS: I think it would be a
3 good move. Judge White, it's good to have you
4 here with us. Thank you so much for your
5 service on the bench and for offering for re-
6 election. That concludes this portion of our
7 screening process. As you know, the record
8 will remain open until the report is published
9 and you could be called back as such time
10 should that need arise. Again, thank you so
11 much for your service to South Carolina and
12 for being with us today.

13 JUDGE WHITE: Thank you, Mr. Chairman.
14 And I thank all of you for the time and effort
15 that you put into this process. I'm still
16 convinced that this is the best judicial
17 screening process in the nation. I'm glad I'm
18 not having to go out there knocking on doors
19 and for public election this time. So thank
20 you all for your service to the state, as
21 well.

22 CHAIRMAN CLEMMONS: Thank you. Is this
23 really Judge Emery before us?

24 JUDGE EMERY: It is. It is.

25 CHAIRMAN CLEMMONS: Ladies and gentlemen,

1 we have before us the Honorable Melissa
2 Johnson Emery of the Family Court, 15th
3 Judicial Circuit, Seat 2. Judge, can you
4 please raise your right hand and be sworn?

5 (The judge is sworn in.)

6 CHAIRMAN CLEMMONS: Thank you very much.

7 EXAMINATION

8 (By Chairman Clemmons)

9 **Q. Judge, you provided a very detailed response to the**
10 **personal date questionnaire that staff sent you**
11 **early in this process. Is that response that you**
12 **provided still current and correct or is it in any**
13 **need of change or amendment at this time?**

14 A. It would still be current and correct.

15 **Q. Thank you very much. Would you have any objection**
16 **to us including that as an exhibit to the record of**
17 **your personal testimony today?**

18 A. I do not.

19 **Q. Thank you very much.**

20 CHAIRMAN CLEMMONS: Are there any
21 Commission members that would object?

22 (No response.)

23 CHAIRMAN CLEMMONS: Hearing no
24 objections, so ordered.

25 [EXHIBIT 10, JUDICIAL MERIT SELECTION

1 COMMISSION PERSONAL DATA QUESTIONNAIRE FOR THE
2 HONORABLE MELISSA JOHNSON EMERY, DATED JULY
3 31ST, ADMITTED.]

4 [EXHIBIT 11, JUDICIAL MERIT SELECTION
5 COMMISSION SWORN STATEMENT FOR THE HONORABLE
6 MELISSA JOHNSON EMERY, DATED OCTOBER 28TH,
7 2015, ADMITTED.]

8 CHAIRMAN CLEMMONS: Judge, the Judicial
9 Merit Selection Commission has thoroughly
10 investigated your qualifications for
11 continuation on the bench. Our inquiry has
12 been focused on the nine statutory evaluative
13 criteria. In that process, as resulted in the
14 screening hearing today. There are no
15 witnesses here to testify against you and no
16 affidavits have been filed in opposition to
17 your election. If you would, please, at this
18 point, turn your attention to your screening
19 attorney and respond to her questions. Thank
20 you.

21 EXAMINATION

22 (By Ms. Anderson)

23 **Q. Good afternoon, Judge Emery.**

24 **A. Good afternoon.**

25 **Q. You have before you the sworn statement you**

1 **provided with detailed answers to over 30**
2 **questions. Are there any amendments you would like**
3 **to make at this time to your sworn statement?**

4 A. No, ma'am.

5 MS. ANDERSON: At this time, Mr.
6 Chairman, I would like to ask that Judge
7 Emery's sworn statement be entered as an
8 exhibit into the hearing record.

9 CHAIRMAN CLEMMONS: Is there an
10 objection?

11 (No response.)

12 CHAIRMAN CLEMMONS: Hearing none, so
13 ordered.

14 [EXHIBIT 12, JUDICIAL MERIT SELECTION
15 COMMISSION SWORN STATEMENT FOR MELISSA JOHNSON
16 EMERY, DATED JULY 31ST, 2015, ADMITTED.]

17 **Q. Judge Emery, after serving on the Family Court**
18 **since last February, why do you want to continue**
19 **serving as a Family Court judge?**

20 A. I love my job. I mean, I was a Family Court
21 attorney for 18, 19 years before I went on the
22 bench. I practiced exclusively in Family Court.
23 That's been the passion of my career and while it
24 has been different going from one side of the bench
25 to the other, it has been something that I have

1 enjoyed, I think I have done well at. I've gotten
2 a lot of positive feedback from my peers, from the
3 litigants in front of me and it's just a job I
4 absolutely love. Worked hard to get it and would
5 really like to keep it because I really enjoyed it.

6 **Q. The Commission received 123 ballot box surveys**
7 **regarding you with nine additional comments. The**
8 **ballot box surveys, for example, contained some of**
9 **the following positive comments. Excellent judge**
10 **with a wonderful temperament. She is fair and**
11 **patient to all. New to the bench and doing a very**
12 **good job, hardworking. Three of the comments**
13 **expressed concerns and they were related to**
14 **judicial temperament. Would you like to respond to**
15 **that?**

16 A. Well, I remember in my conversations with you
17 earlier on, one of them was concern that I might
18 show partiality. I don't believe that to be true.
19 I go out of my way to make sure that there is not
20 partiality shown to the point that I've never had
21 anyone ask me to recuse myself or not hear a
22 matter. If it was a situation, for example, I went
23 through a divorce and the person that represented
24 me, I had taken care of that. So I do my best to
25 make sure that that's not the case. I will tell

1 you in the 18 months that I've been on the bench,
2 they traveled me a good bit, and so a lot of the
3 counties I go into I don't know anybody that comes
4 before me. As far as the temperament, I think I've
5 had good responses. I will say that I am surprised
6 sometimes by the temperament of younger attorneys
7 or attorneys that come in front of me, sometimes
8 they don't have the respect and I will say that I
9 am one that you're going to have respect for one
10 another and you're going to have respect for the
11 bench. That's how I was taught. That's how I was
12 raised in court and that's what I insist on. Some
13 people don't care for that and so I imagine that
14 might be the basis for a couple of those comments,
15 but I demand respect. Everybody's going to respect
16 and I will continue to do that.

17 **Q. And with the background investigation, the SLED**
18 **check showed a lawsuit from 2011, which was Chase**
19 **Home Finances versus Victor Johnson. You were a**
20 **named defendant along with a number of other**
21 **defendants on this lawsuit. Can you please explain**
22 **the nature and disposition of this matter?**

23 **A.** I had represented Mr. Johnson's wife and
24 sometime during the course of the case, he was
25 required to pay me attorney's fees. I think it was

1 two or \$3,000 worth of attorney's fees. And for
2 some reason, when that order got filed with the
3 clerk's office, it was coded as a judgment. I
4 mean, he satisfied his fees. I would've ruled him
5 in if he didn't, but he satisfied his fees. I
6 think that it was filed and I was dismissed within
7 a week or two when it was determined that that was
8 an attorney fee award and not something that I had
9 filed a judgment against him. But I think that's
10 why I was named.

11 **Q. I have a few housekeeping issues. Have you sought**
12 **or received the pledge of any legislator prior to**
13 **this date?**

14 A. No.

15 **Q. Have you sought or have you been offered a**
16 **conditional pledge of support of any legislator**
17 **pending the outcome of your screening?**

18 A. No.

19 **Q. Have you asked any third parties to contact members**
20 **of the General Assembly on your behalf?**

21 A. No.

22 **Q. Are you aware of anyone attempting to intervene in**
23 **any part of the process on your behalf?**

24 A. No.

25 **Q. Have you contacted any members of the Commission?**

1 A. No.

2 Q. Do you understand that you are prohibited from
3 seeking a pledge or commitment until 48 hours after
4 the formal release of the Commission's report?

5 A. Yes, ma'am.

6 Q. Have you reviewed the Commission's guidelines on
7 pledging?

8 A. Yes, ma'am.

9 Q. As a follow-up, are you aware of the penalties for
10 violating the pledging rules, that is, it is a
11 misdemeanor and upon conviction the violator must
12 be fined not more than \$1,000 or imprisoned not
13 more than 90 days?

14 A. Yes, ma'am.

15 MS. ANDERSON: I would note that the Pee
16 Dee Citizens Committee reported that Judge
17 Emery is qualified as to constitutional
18 qualifications, physical health, and mental
19 stability. And well qualified as to ethical
20 fitness, professional and academic ability,
21 character, reputation, experience, and
22 judicial temperament. I would also like to
23 note for the record that any concerns raised
24 during the investigation regarding Judge Emery
25 were incorporated in today's questioning. Mr.

1 Chairman, I have no further questions.

2 CHAIRMAN CLEMMONS: Thank you very much.
3 Judge Emery, before we go on to see if there
4 are any questions, I just peeked around the
5 podium and saw that you have a special guest
6 with you. Would you like to introduce him?

7 JUDGE EMERY: I do. That's my fiance,
8 Thomas Buckhannon. I will say that is a
9 wonderful thing that comes from my job. He
10 was my first deputy my first week of court in
11 Charleston and he took care -- and then Judge
12 Martin did a little matchmaking. So he took
13 care of me my first week and a few months
14 later, it became a permanent job for him, so.

15 CHAIRMAN CLEMMONS: Is that
16 fraternization?

17 JUDGE EMERY: No. I'm from Horry County.

18 CHAIRMAN CLEMMONS: Great to have you
19 with us today.

20 JUDGE EMERY: Thank you.

21 CHAIRMAN CLEMMONS: Senator Malloy,
22 question?

23 SENATOR MALLOY: Thank you, Mr. Chairman.
24 First, I want to say that I know Judge Emery
25 and had a chance to appear in front of her and

1 I think that she's done a very good job, has a
2 good disposition on the court. She was very
3 tolerant of me when I almost lost my cool in
4 her courtroom over a young lawyer that I
5 thought was out of order and I will just say
6 that she handled matters very well. I'd also
7 like to applaud her for what I believe to be
8 the highest score on the test.

9 JUDGE EMERY: Thank you.

10 SENATOR MALLOY: And I think that that
11 goes to a young judge and shows that they're
12 still working hard to end up maintaining and
13 understanding the law and I wanted to
14 congratulate you on that.

15 JUDGE EMERY: Thank you. I didn't know
16 that, but I appreciate you saying that.

17 SENATOR MALLOY: I'm sure the staff --

18 MS. ANDERSON: I can't tell her that.

19 SENATOR MALLOY: Oh, she can't tell that.
20 Can I? I mean, I expect that I can do it, but
21 that doesn't mean that I'm supposed to.

22 JUDGE EMERY: I appreciate it, though.

23 SENATOR MALLOY: So I just wanted to use
24 that as an opportunity to show that we
25 understand that this was a very difficult test

1 and for you to achieve the way that you have
2 on it shows that you are taking it very
3 seriously in preparation and understanding and
4 performance on the test and I observed
5 personally how you handle the bench and I
6 want to thank you for that.

7 JUDGE EMERY: Thank you, sir. Thank you.

8 CHAIRMAN CLEMMONS: Judge Emery, I just
9 want to let all the Commission members know
10 that Judge Emery is in Horry County and that
11 she is highly respected by all, including
12 myself, as the kind of judge that makes us
13 proud to serve. I wish that we had many great
14 jurist serving on the Family Court bench.
15 If those coming along could all be like Judge
16 Emery, it would be a wonderful world. Judge
17 Emery, thank you for your service.

18 JUDGE EMERY: Thank you so much.

19 CHAIRMAN CLEMMONS: Are there any other
20 questions?

21 (No response.)

22 CHAIRMAN CLEMMONS: Hearing none, Judge,
23 that will conclude this portion of the
24 screening process. As you know, the record
25 will remain open until the report is

1 published. You could be called back at
2 another time if that need should arise. We,
3 again, thank you for your service to South
4 Carolina and your service on the bench.

5 JUDGE EMERY: Thank you. And thank you,
6 as well.

7 (The judge is excused.)

8 (Off-the-record discussion.)

9 VICE-CHAIRMAN MARTIN: He may take over,
10 but I'm going to go ahead and get started.
11 Can you raise your hand and take the oath?

12 JUDGE LENSKI: Yes, I will.

13 (The judge is sworn in.)

14 VICE-CHAIRMAN MARTIN: Thank you very
15 much.

16 EXAMINATION

17 (By Vice-Chairman Martin)

18 **Q. Have you had the opportunity to review your PDQ?**

19 A. Yes, sir.

20 **Q. Personal Data Questionnaire. Everything in order?
21 You need any amendments?**

22 A. No, sir.

23 **Q. Do you object to us making this part of your sworn
24 testimony today?**

25 A. No.

1 VICE-CHAIRMAN MARTIN: It will be done at
2 this point in the transcript.

3 [EXHIBIT 13, JUDICIAL MERIT SELECTION
4 COMMISSION PERSONAL DATA QUESTIONNAIRE FOR THE
5 HONORABLE SEBASTIEN PHILLIP LENSKI, DATED
6 AUGUST 10TH, 2015, ADMITTED.]

7 **Q. Of course, you're aware of the nine evaluative**
8 **criteria we've used in this process. We have no**
9 **affidavits in opposition to your election. We**
10 **have no witnesses here to testify. Do you have any**
11 **opening comment you'd like to make?**

12 **A. I'm just happy to be here and answer any questions**
13 **that you have. Thank you.**

14 **Q. Thank you very much. Will you answer the questions**
15 **of our able counsel?**

16 MR. PEARCE: Thank you, Senator.

17 EXAMINATION

18 (By Mr. Pearce)

19 **Q. Judge Lenski, you have before you the sworn**
20 **statement you provided with detailed answers to**
21 **over 30 questions regarding judicial conduct,**
22 **statutory qualification, office administration, and**
23 **temperament. Do you have any amendments you'd like**
24 **to make at this time to your sworn statement.**

25 **A. No, I do not. Thank you.**

1 MR. PEARCE: At this time, Mr. Chairman,
2 I would ask that Judge Lenski's sworn
3 statement be entered as an exhibit into the
4 hearing record.

5 CHAIRMAN CLEMMONS: I think there are no
6 objections, so ordered.

7 [EXHIBIT 14, JUDICIAL MERIT SELECTION
8 COMMISSION SWORN STATEMENT FOR THE HONORABLE
9 SEBASTIEN PHILLIP LENSKI, DATED AUGUST 7TH,
10 2015, ADMITTED.]

11 **Q. Judge Lenski, after serving since 2010 on the**
12 **Administrative Law Court, why do you want to**
13 **continue to serve?**

14 A. Well, first of all, I want to say that it has been
15 a great honor to be a member of the Administrative
16 Law Court. I was very honored to have been elected
17 to the seat and I've had a tremendous experience
18 over the last five years serving on that court.
19 I've learned a tremendous amount and each year that
20 I'm on the court, you know, I'm more intrigued by
21 what I do. I love my job and I think I definitely
22 would like an opportunity to continue serving and
23 to apply what I've learned for another term.

24 **Q. The Commission received 137 ballot box surveys**
25 **regarding you with 25 additional comments. The**

1 ballot box survey, for example, contained the
2 following positive comments. Truly thoughtful,
3 fantastic jurist, utmost character, excellent
4 temperament, and needs to be the Chief
5 Administrative Law judge. Of those 25 written
6 comments, approximately 11 indicated some concerns.
7 One concern was the timeliness in rendering
8 decisions and issuing orders. What response would
9 you offer to that concern?

10 A. Well, I would say that if there was one thing that
11 I have been working hardest on to improve is the
12 timeliness with which I've gotten out some of my
13 orders. I have had some interesting things happen
14 over the five years that I was on the bench. First
15 of all, it was my first term. Second of all, six
16 months after I was elected to the bench, I was
17 notified by the United States Army that I was being
18 mobilized. My entire reserve unit was mobilized
19 and so less than a year after I'd been on the
20 bench, in December of 2010, I went to Fort Bragg
21 and I didn't come back until February of 2012.
22 It was a 12 month mobilization, but they put us on
23 orders before to get trained up to do our job and
24 then we had to stay a little bit longer to come off
25 of active duty after the XVIIIth Airborne Corps

1 returned from Iraq to kind of resume their duties
2 because they took some leave and took their time
3 getting back to work.

4 So during that period of time, I'd barely
5 gotten a full caseload going and was up to speed
6 and then I got notified I was leaving and I was
7 gone for 14 months. I had hoped that I would be
8 able to continue to do some things while I was
9 there, but the job was an unbelievable amount of
10 work. It basically started at six o'clock in the
11 morning with running and push-ups in the good ole
12 Army style and then we were usually leaving the
13 office around eight o'clock at night because the
14 entire legal force for the Corps had gone over to
15 Iraq so this unit of mine, we were responsible for
16 all the day to day administrative operations.

17 There were legal issues going on at Fort
18 Bragg, which is a huge military instillation. So
19 when I came back off of active duty, I was already
20 behind. Then I was trying to catch up on some
21 things and I lost my law clerk because he was also
22 in the Reserves and he was mobilized and left
23 thereafter. I tried to hold the job open for him
24 for a period of time, but he ultimately took
25 another position when he came off of active duty.

1 So he didn't return to me and then I had my next
2 law clerk. She worked for me, but she had a
3 difficult pregnancy and was out for a good bit of
4 time. I found myself a good bit behind on things
5 and I've been working to catch up.

6 I have a fantastic staff attorney and a
7 fantastic law clerk working for me now and I don't
8 anticipate having as much difficulty getting orders
9 out in a timely fashion. But I do have to say that
10 there was a period of time there where I fell
11 behind and I wasn't happy about that, but I've made
12 some changes to things so that I hope that that
13 won't be an issue going forward.

14 **Q. A second concern in the ballot box responses**
15 **questioned your understanding of the law,**
16 **specifically saying that they believed you were**
17 **making findings of fact in an administrative law**
18 **matter instead of remanding the case for additional**
19 **findings and facts. What response would you offer**
20 **to this concern regarding your approach to**
21 **administrative law cases?**

22 **A.** Well, without knowing more specifically about the
23 matter, it's difficult for me to address that
24 specifically. I think I have a good understanding
25 of the jurisdiction of the Administrative Law Court

1 and certainly if I ever have question about the
2 jurisdiction of the court or about the duties, I
3 consult the law in that regard. But I know that in
4 contested case matters where my responsibility is
5 to make findings of fact and, of course, our court
6 hears both contested cases and cases on appeal from
7 administrative agencies -- in those cases where
8 there are contested cases, I do have to make
9 findings of fact.

10 There would be an appropriate time where
11 matters sometimes do need to be remanded back to
12 the agency, but if it's a de novo hearing -- if my
13 duty is to hear the case in its de novo capacity,
14 then it is my duty to make findings of fact and I
15 can accept findings of fact from the administrative
16 agency if there were any that were made.

17 Sometimes they don't make too many of them and
18 in a de novo setting, I have to make them myself.
19 So without knowing, I can only address generally
20 what my duties are as a judge on the court and how
21 I would handle situations and that's the best I can
22 do as far as answering that criticism.

23 **Q. And in an additional matter, the SLED report the**
24 **Commission received showed that an inmate filed a**
25 **petition against you in the Common Pleas Court in**

1 **Richland County in 2013. That case was shown as**
2 **dismissed under the Rules of Civil Procedure 41(a).**
3 **It was filed by an inmate, Gregory Cleveland. Do**
4 **you have any recollection of that particular case?**

5 A. In all candor, no. I do not. I'm sorry. I didn't
6 even know that had happened.

7 **Q. It is shown as dismissed on the SLED report.**

8 A. Yes, sir.

9 MR. PEARCE: I do, Mr. Chairman, have
10 some housekeeping issues.

11 **Q. Judge, if I might --**

12 A. Yes, sir.

13 **Q. -- go through those with you at this time. Have**
14 **you sought or received the pledge of any legislator**
15 **prior to this date?**

16 A. I have not.

17 **Q. Have you sought or been offered a conditional**
18 **pledge of support of any legislator pending the**
19 **outcome of your screening?**

20 A. No. I have not.

21 **Q. Have you asked any third parties to contact members**
22 **of the General Assembly on your behalf?**

23 A. I have not.

24 **Q. Are you aware of anyone attempting to intervene in**
25 **any part of this process on your behalf?**

1 A. No, I am not.

2 Q. Have you contacted any members of this Commission?

3 A. I have not.

4 Q. Do you understand that you are prohibited from
5 seeking a pledge or commitment until 48 hours after
6 the formal release of the Commission's report?

7 A. Yes. I'm aware of that.

8 Q. Have you reviewed the Commission's guidelines on
9 pledging?

10 A. Yes.

11 Q. As a follow-up, are you aware of the penalties for
12 violating the pledging rules of a condition of a
13 misdemeanor, and upon conviction, the violator must
14 be fined not more than \$1,000 or imprisoned not
15 more than 90 days?

16 A. I am aware of that. Yes, sir.

17 MR. PEARCE: I would note that
18 the Midlands Citizens Committee reported that
19 Judge Lenski was qualified regarding
20 constitutional qualifications, physical
21 health, and mental stability. He was found
22 well qualified as to ethical fitness,
23 professional and academic ability, character,
24 reputation, experience, and judicial
25 temperament. They also added this particular

1 comment to their report that Judge Lenski is
2 an excellent judge and very qualified for his
3 position. I would just note for the record
4 that any concerns raised in the background
5 work that we did during his candidacy
6 interview were incorporated into the
7 questioning that I have done with the
8 candidate today. Mr. Chairman, I would have
9 no further questions.

10 CHAIRMAN CLEMMONS: Thank you, Mr. Pearce
11 and thank you, Mr. Lenski.

12 JUDGE LENSKI: Thank you, Mr. Chairman.

13 CHAIRMAN CLEMMONS: Mr. Hitchcock is
14 recognized.

15 MR. HITCHCOCK: Thank you, Mr. Chairman.
16 Mr. Chairman, I'd like to disclose for the
17 Commission that Mr. Lenski is a good friend of
18 mine. He used to work for me. He worked for
19 me for two years in the Senate, a year of
20 which he was actually deployed to Iraq for his
21 first deployment during Operation Iraqi
22 Freedom. We also served in the same Reserve
23 unit together. He was in my wedding. So I
24 know Judge Lenski very well, which does make
25 me call into question the test results.

1 It's my understanding that he, I think, got
2 the highest score of anyone potentially, or
3 something close to that.

4 In all seriousness, I think that's
5 demonstrative of Judge Lenski's legal
6 knowledge and ability. I can tell you that
7 from knowing him for so long, I've met few
8 people who have dedicated so much of their
9 life and time to serving not only our state,
10 but also our country. I don't think you could
11 have a better representative on the
12 Administrative Law Court.

13 CHAIRMAN CLEMMONS: Thank you, Mr.
14 Hitchcock. I believe you were correct. His
15 test scores were the highest of all the ALJ
16 candidates that we are screening this cycle.

17 DEAN WILCOX: All candidates --

18 CHAIRMAN CLEMMONS: He's the only one.
19 That was an attempt at a joke. I recognize my
20 shortcomings. Senator Martin.

21 SENATOR MARTIN: I'm only going to add,
22 and then the Senator from Charleston wants to
23 make a comment, that Judge Lenski also worked
24 with Senate Judiciary Committee after working
25 for Senate Research and just very able. We

1 were lucky to get him. We just appreciate so
2 much his service and knew that he would do
3 well in this position and he has. We're just
4 so very appreciative of your outstanding
5 service, both on the court and to our country.

6 JUDGE LENSKI: Thank you very much.

7 CHAIRMAN CLEMMONS: Senator Campsen.

8 SENATOR CAMPSEN: Mr. Chairman, I just
9 would concur with what Mr. Hitchcock and
10 Senator Martin have said, that Mr. Lenski
11 performed outstanding service, has a very
12 good legal mind. In fact, I'm not even going
13 to question him about the separation of powers
14 doctrine because I know that he's very
15 conversant with it, having learned at the feet
16 of Mr. Hitchcock over there.

17 JUDGE LENSKI: Absolutely.

18 SENATOR CAMPSEN: He knows the proper
19 role. Actually you were a member of the
20 executive branch as opposed to the judicial
21 branch.

22 JUDGE LENSKI: That's true.

23 SENATOR CAMPSEN: But, nevertheless, he's
24 a very good legal mind that's provided great
25 service for the Senate and he has been and

1 will continue to be an outstanding jurist.

2 CHAIRMAN CLEMMONS: Thank you very much,
3 Senator Campsen. Senator Malloy. Let's hear
4 from the third of the Senate delegation --
5 forth of the Senate delegation.

6 SENATOR MALLOY: Thank you, Mr. Chair and
7 I, too, worked on the committee that Mr.
8 Lenski worked with and I think it goes a
9 little bit further. I think that we heard
10 from the Administrative Law Court in one of
11 these last hearings. What we learned and what
12 I found out, too, is Judge Lenski, a lot of
13 times he gets some more difficult cases over
14 there and I think that adds to their
15 confidence in his intellect and his ability as
16 a judge. I do have one question that I think
17 that the committee needs to know. I think
18 that we need to know who his favorite cowboy
19 is, who his hero was, and so he can tell them
20 that and then I have another comment I need to
21 make. Who's a cowboy that you wanted to be
22 like?

23 JUDGE LENSKI: Well, Senator, the name
24 that I wanted was -- I was very upset with my
25 mother because she didn't name me Buck. There

1 was a particular cowboy whose character was
2 Buck in a movie that I saw as a child and I
3 definitely thought that that's who I should
4 have been named after. I was very upset that
5 my mother named me Sebastien Phillip. As you
6 can imagine, that's a far cry from Buck, so.

7 SENATOR MALLOY: I have a brother who has
8 a nickname Buck. They call him Buck because
9 my sister was calling him Brah, but she was
10 trying to call him brother, but she started
11 calling him Buck and so that nickname has
12 stuck. So if you ever go up there and try to
13 buy a suit, if you were to say Buck, he'll
14 know who you're talking about.

15 But I do want to say this and I think
16 it's worthy of saying the second part of this.
17 Back in my earlier life, Judge Lenski had a
18 very good floor leader to end up becoming a
19 judge and he got unanimous approval from the
20 Senate right away. But I will say this, in
21 one of the most humbling times that we've had
22 over here in our earlier life, Judge Lenski
23 was involved in a race and I think it's very
24 fitting for this committee to end up knowing
25 that in a race that I thought that he would

1 win, but he did not win. He was running for
2 the ALJ. He came to my office and said, you
3 know, says I really want to talk to you about
4 something. He said, you know, we really got
5 to make certain we have some diversity on the
6 bench and I've just been thinking about it,
7 and it was a race that I thought he would
8 obviously win, and he then made a decision to
9 withdraw so that, at the time, that Judge
10 Shirley Robinson could get on the ALJ bench
11 because we had no African Americans on the
12 bench. I just think that, during that time,
13 which I knew was a race that he was most
14 likely going to win, and he said I'm willing
15 to wait my time. I think it's just worthy of
16 this Committee to end up knowing the kind of
17 compassion that a person would have. He
18 didn't put himself first. He put others in
19 our state first in making that kind of
20 decision when he really didn't have to. So
21 I'll always appreciate that, Judge.

22 JUDGE LENSKI: Thank you, Senator.

23 CHAIRMAN CLEMMONS: Judge, the point's
24 been well-made that you worked long and hard
25 for the Senate and I feel like I should make

1 the point that the only reason he didn't work
2 for the House is because he wouldn't leave the
3 Senate, so. We all look up to you and are
4 grateful for your service, not only on the
5 bench, but also your military service. We all
6 think the world of you. Thank for being here.
7 Are there any other questions or comments?

8 (No response.)

9 CHAIRMAN CLEMMONS: Hearing none, this
10 concludes this portion of the screening
11 process. Judge Lenski, we would remind you
12 that the record will remain open until the
13 report is published. You may be called back
14 should that need arise. Again, we thank you
15 for your service on the bench and your service
16 to the state of South Carolina.

17 JUDGE LENSKI: Thank you, Mr. Chairman
18 and thank all of you for what you do on this
19 Committee.

20 (Candidate is excused.)

21 CHAIRMAN CLEMMONS: Ladies and gentlemen,
22 our lunch is here and I have suggested,
23 through staff, to the judges that are waiting
24 to be heard that if none of them would be
25 offended, we would eat while we question

1 them and they are all in happy agreement with
2 that. Bring in the next judge.

3 (Brief pause.)

4 CHAIRMAN CLEMMONS: Thank you for your
5 understanding allowing us to work through
6 lunch.

7 JUDGE FUGE: You got it.

8 CHAIRMAN CLEMMONS: I also want to say
9 thank you for your patience. Judge Fuge, will
10 you kindly raise your right hand and be sworn?

11 (The judge is sworn in.)

12 CHAIRMAN CLEMMONS: Thank you very much.

13 EXAMINATION

14 (By Chairman Clemmons)

15 **Q. Judge, you provided this Committee with the**
16 **responses to your personal data questionnaire. Are**
17 **those responses still current and correct today or**
18 **are they in any need of amendment?**

19 A. They would be current.

20 **Q. Thank you. Do you have any objection to us**
21 **including those responses in our record today of**
22 **your sworn testimony?**

23 A. No. No.

24 CHAIRMAN CLEMMONS: Thank you. Are there
25 any objections by Commission members?

1 (No response.)

2 CHAIRMAN CLEMMONS: Hearing none, so
3 ordered.

4 [EXHIBIT 15, JUDICIAL MERIT SELECTION
5 COMMISSION PERSONAL DATA QUESTIONNAIRE FOR THE
6 HONORABLE PETER L. FUGE, DATED AUGUST 4TH,
7 2015, ADMITTED.]

8 CHAIRMAN CLEMMONS: Judge, the Judicial
9 Merits Selection Commission has thoroughly
10 investigated your qualifications for
11 continuation on the bench. Our inquiry's been
12 focused on the nine evaluative criteria and
13 that process has resulted in our presence
14 here with you today. There are no witnesses
15 present to testify and there no affidavits
16 filed in opposition to your election. If at
17 this point, you would please turn your
18 attention to Mr. Goldin and respond to his
19 questions.

20 JUDGE FUGE: Yes, sir.

21 EXAMINATION

22 (By Mr. Goldin)

23 **Q. Good afternoon, Judge. You have before you the**
24 **sworn statement you provided with detailed answers**
25 **to over 30 questions. Are there any amendments you**

1 **would like to make at this time to that sworn**
2 **statement?**

3 A. No, sir.

4 MR. GOLDIN: At this time, Mr. Chairman,
5 I would like to ask that Judge Fuge's sworn
6 statement be entered as an exhibit to the
7 hearing record.

8 CHAIRMAN CLEMMONS: Are there any
9 objections?

10 (No response.)

11 CHAIRMAN CLEMMONS: Without objections,
12 so ordered.

13 [EXHIBIT 16, JUDICIAL MERIT SELECTION
14 COMMISSION SWORN STATEMENT FOR THE HONORABLE
15 PETER L. FUGE, DATED AUGUST 4TH, 2015,
16 ADMITTED.]

17 **Q. Judge, after serving for six years, why do you want**
18 **to continue to serve on the Family Court bench?**

19 A. It's all I've done, really. I love it. I'm very
20 fortunate. It sounds a little bit -- I don't want
21 to be -- but I really think this is God's will. I
22 was the middle kid in an Irish family so I wound up
23 doing a lot of domestic relations law because I'm
24 used to a little bit of friction and it all just
25 worked out. And then when it was my time to be on

1 the bench, I got to do that. I hope I've helped
2 people out because I've tried.

3 **Q. Thank you, Judge. The Commission received 258**
4 **ballot box surveys regarding you with 28 additional**
5 **comments. Some of the surveys contained the**
6 **following positive comments indicating you're a**
7 **good lawyer, good judge, very smart and knows the**
8 **law, and best judicial temperament of all the**
9 **Family Court judges. There were 14 written**
10 **comments that expressed some concerns. The theme**
11 **of those comments concern your treatment of parties**
12 **and the attorneys who appear before you.**
13 **Respondents state that you have poor judicial**
14 **temperament and demeanor. What response would you**
15 **offer to these concerns?**

16 **A.** Well, I don't know what to say. You know, it's a
17 straw man situation. The concern about being -- I
18 hope I'm not abusive to anybody. Sometimes, you
19 know, Family Court has really changed. It's
20 interesting -- a really interesting phenomenon.
21 What's happened is, with mediation and arbitration,
22 you don't see a lot of the same type of Family
23 Court cases you got about 10 or 15 years ago. I
24 think over the years, you have many, many more pro
25 se litigants or pro se litigants against an

1 attorney. So it's really changed and I apologize
2 to anyone if I've ever offended them. You know
3 with domestic relations people get angry because
4 they want their way. It's really very important to
5 them. It's the most important thing in their
6 life and I understand that. And sometimes, I
7 think, you just have to pick. You have to do what
8 you think is right. Sometimes, they get bitter and
9 feel that way about it; I hope not. I try not to
10 do that.

11 **Q. Thank you, Judge. Just some general housekeeping**
12 **issues I want to go through with you. Have you**
13 **sought or received the pledge of any legislator**
14 **prior to this date?**

15 A. No, sir.

16 **Q. Have you sought or have you been offered a**
17 **conditional pledge of support of any legislator**
18 **pending the outcome of this screening?**

19 A. No, sir.

20 **Q. Have you asked any third parties to contact members**
21 **of the General Assembly on your behalf?**

22 A. No, sir.

23 **Q. Are you aware of anyone attempting to intervene in**
24 **this process on your behalf?**

25 A. No, sir.

1 Q. Have you contacted any members of the Commission?

2 A. No, sir.

3 Q. Do you understand that you are prohibited from
4 seeking a pledge or commitment until 48 hours after
5 the formal release of the Commission's report?

6 A. Yes, sir.

7 Q. Have you reviewed the Commission's guidelines on
8 pledging?

9 A. Yes, sir.

10 MR. GOLDIN: I would note for the record
11 that the South Carolina Bar Qualifications
12 Committee found Judge Fuge to be overall
13 qualified and that Lowcountry Citizens
14 Committee found Judge Fuge to be qualified as
15 to constitutional qualifications, physical
16 health, mental stability, and well qualified
17 as to ethical fitness, professional and
18 academic ability, character, reputation,
19 experience, and judicial temperament. The
20 committee found that, based on these
21 evaluative criteria, that he meets the
22 requirements in this area and any concerns
23 discovered during the investigation were
24 incorporated in the questioning of this
25 candidate today.

1 CHAIRMAN CLEMMONS: Thank you, Mr.
2 Goldin. Any questions? Ms. Wall.

3 MS. WALL: Thank you, Mr. Chairman. By
4 full disclosure for the Commission, I've known
5 Judge Fuge actually long before he was a
6 judge. So it's been many, many years that
7 I've known Judge Fuge. I've known him to be a
8 fine and upstanding person. I have not had
9 the opportunity to appear in front of him as a
10 judge in Family Court, but I am confident, as
11 the majority of comments have been made, that
12 he has done a very good job, that he is always
13 compassionate and fair.

14 JUDGE FUGE: Thank you very much.

15 CHAIRMAN CLEMMONS: Thank you, Ms. Wall.
16 Dean Wilcox.

17 EXAMINATION

18 (By Dean Wilcox)

19 **Q. Judge, frankly, there is a little bit of concern I**
20 **have. It's the number of people who responded. I**
21 **think you had more responses suggesting you were**
22 **unqualified in terms of temperament than maybe any**
23 **other candidate we had. As you reflect on that, at**
24 **this point, are there reasons why 47 people found**
25 **you unqualified, or suggested you were in the**

1 **ballot box, as to judicial temperament?**

2 A. Well, I think I probably have an overbearing -- at
3 times, you know, I can be -- because I'm a big guy
4 and I was brought up with -- I have a brother that
5 threw the shot discus at Carolina. It was a big
6 house. Maybe that's a real fault I have. I hope
7 not though. I really try not to. I think
8 sometimes people can misperceive, you know,
9 directness or -- I've never shown any disrespect to
10 anybody. I really don't. I'm very disappointed in
11 myself that I had those.

12 **Q. And I note that at least several of the comments**
13 **referred to differentiation of treatment of genders**
14 **and I do urge you to, at least, think about that as**
15 **you're going forward in this regard.**

16 A. Yes, sir.

17 **Q. Let me ask you a specific question that was raised**
18 **in the comments and it dealt with DSS jurisdiction**
19 **and retaining jurisdiction over matters, which they**
20 **said then you leave to go on the circuit and it**
21 **causes problems and delays and things. Do you**
22 **typically retain jurisdiction over a DSS matter**
23 **yourself?**

24 A. No. I do it occasionally because I'm so worried
25 about the child and I'm so worried about the status

1 of where the child is. I may do that, but that's
2 what I do. You know, you'll have a dynamic
3 situation where I'll have a woman who's a
4 drug addict and I think you all know that's not
5 something you just stop overnight, you know, and I
6 had to go call the -- that many people work with
7 others that assist the Department of Social
8 Services think you can send somebody off to the
9 Lowcountry Counseling Center for three weeks and
10 it's going to be okay and sometimes when I am
11 really worried about a child and the health of the
12 child and the welfare of the child -- a child
13 that's born a crack baby or something like that.
14 Yeah, I'll maintain jurisdiction and I was proud of
15 that. I do apologize. I mean, I try to make
16 myself available. I've had DSS come to my house.
17 I mean, anytime you want to have anybody sign an
18 order, you know, a pick-up order or you've got a
19 child that's in deep trouble and is being abused, I
20 hope someone told you that. I've had a lot of DSS
21 people come to my house on the weekend. So I'm
22 sorry, but.

23 **Q. I appreciate your answer to that, Judge. As to the**
24 **other, I think we're fully appreciative of the**
25 **difficulty responding to anonymous comments and we**

1 struggle with that as well as you do, but I do urge
2 you -- I think an important part of the process of
3 being vetted again and going up is to at least
4 reflect and take as perhaps some opportunity for
5 some constructive evaluation there where that many
6 people seem to have left the courtroom feeling
7 unhappy and that's what I just want to be sure --

8 A. But you're saying that there were 47 people that
9 said I'm a misogynist?

10 Q. No. No. No. No. No. There were 47 people
11 who spoke generally about temperament as
12 unqualified. A few of those comments referred to
13 gender.

14 A. Okay. If it's a fault of mine then I will work on
15 it, absolutely. You know, I mean, you see stuff
16 now you've never seen before and it's just
17 heartbreaking with some of the kids and I'm sorry.
18 I apologize if I've given anybody, DSS or anybody,
19 that impression. I just try to do the best
20 interest of the child and I try to follow the
21 statutes.

22 DEAN WILCOX: I appreciate it. Thank
23 you. That's all I had, Mr. Chair.

24 CHAIRMAN CLEMMONS: Thank you, Dean. Are
25 there any other questions or comments?

1 (No response.)

2 CHAIRMAN CLEMMONS: Hearing none, Judge,
3 again, we thank you for being with us today.

4 JUDGE FUGE: Thank you, sir.

5 CHAIRMAN CLEMMONS: That will conclude
6 this portion of the Judicial Merit Selection
7 screening process. The record will remain
8 open until such time that the report is
9 published. You could be called back at such
10 time if that need should arise.

11 JUDGE FUGE: All right, sir.

12 CHAIRMAN CLEMMONS: Again, we thank you
13 for your service to South Carolina and your
14 desire to continue to serve.

15 JUDGE FUGE: Thank you. I'm sorry if I,
16 you know, gave anybody the impression that I'm
17 abusive towards people because I don't -- you
18 know, that's not what I'm working for.

19 CHAIRMAN CLEMMONS: We understand.

20 JUDGE FUGE: Thank you very much.

21 CHAIRMAN CLEMMONS: We appreciate you
22 looking after the best interest of the child.

23 JUDGE FUGE: Oh, thanks. Thank you, sir.

24 CHAIRMAN CLEMMONS: Thank you, sir.

25 (The judge is excused.)

1 CHAIRMAN CLEMMONS: Mr. Coffey, thank you
2 for being here with us today. Forgive our
3 indulgence as we eat our sandwiches while you
4 speak.

5 MR. COFFEY: Yes, sir.

6 CHAIRMAN CLEMMONS: Ladies and gentlemen,
7 we have before us Mr. Joseph King Coffey, who
8 seeks appointment to Master-in-Equity for
9 Clarendon County, 3rd Circuit. Judge, if you
10 would please, raise your right hand and be
11 sworn. Excuse me, you're not a judge yet. If
12 you please raise your right hand and be sworn.

13 (The candidate is sworn in.)

14 CHAIRMAN CLEMMONS: Thank you.

15 EXAMINATION

16 (By Chairman Clemmons)

17 **Q. You provided this Commission, upon our request,**
18 **with detailed response to the personal data**
19 **questionnaire we provided early on. Are those**
20 **responses current and correct or are they in need**
21 **of any amendments?**

22 **A. No. They're not in need of any amendment. They**
23 **are correct.**

24 **Q. Very good. Thank you. Would you have**
25 **any objection to having your personal data**

1 **questionnaire responses included as part of the**
2 **record of your sworn testimony today?**

3 A. I have no objection.

4 CHAIRMAN CLEMMONS: Thank you. Without
5 objection by any Commission member, that is so
6 ordered.

7 [EXHIBIT 17, JUDICIAL MERIT SELECTION
8 COMMISSION PERSONAL DATA QUESTIONNAIRE FOR
9 JOSEPH KING COFFEY, DATED JULY 29TH, 2015,
10 ADMITTED.]

11 CHAIRMAN CLEMMONS: This Commission has
12 worked hard to investigate your qualifications
13 for service on the bench as a Master-in-
14 Equity. Our inquiry's been focused on nine
15 evaluative criteria provided by statute. As a
16 result of that, we've had no affidavits file
17 in opposition to your election, nor are there
18 any witnesses, other than yourself, present to
19 testify today. Would you, at this point in
20 the process, turn your attention to
21 your screening attorney Mr. Goldin. He has a
22 few questions for you.

23 MR. COFFEY: Yes, sir.

24 EXAMINATION

25 (By Mr. Goldin)

1 Q. Mr. Coffey, you have before you the sworn statement
2 you provided with detailed answers to over 30
3 questions. Are there any amendments you'd like to
4 make at this time to that statement?

5 A. No, there's not.

6 MR. GOLDIN: Mr. Chairman, I would ask
7 that Mr. Coffey's sworn statement be entered
8 as an exhibit into the hearing record.

9 CHAIRMAN CLEMMONS: So ordered without
10 objection.

11 [EXHIBIT 18, JUDICIAL MERIT SELECTION
12 COMMISSION SWORN STATEMENT FOR JOSEPH KING
13 COFFEY, DATED JULY 30TH, 2015, ADMITTED.]

14 Q. Mr. Coffey, why do you now want to serve as Master-
15 in-Equity?

16 A. I think it'd be a great opportunity to serve the
17 community of Clarendon County.

18 Q. And although you addressed this in your sworn
19 affidavit, could you please explain to the members
20 of the Commission what you think the appropriate
21 demeanor is for a Master?

22 A. Professionalism, being non-biased in the decisions,
23 and making thoughtful, good decisions based on the
24 evidence that's presented before you.

25 Q. Thank you. Mr. Coffey, the Commission received 75

1 ballot box surveys regarding you with four
2 additional comments. The ballot box surveys
3 contained only positive comments that indicate
4 you'll likely do a good job as a Master-in-
5 Equity and received no comments that caused
6 concern. One concern that I did find during your
7 investigation was a tax lien from years past. You
8 want to explain that?

9 A. Yes, sir. I'll be glad to. Steve McKenzie and I
10 purchased our law firm in February of 2014 from Ray
11 Chandler. He was our partner that we bought out
12 and there were some existing liens that were
13 against the law firm and one of the obligations
14 when we assumed the debt of the building and paid
15 for the firm was that he was to address and retire
16 because of none of those had accrued while Mr.
17 McKenzie and I owned the firm and I do not have any
18 personal liens against me.

19 **Q. Have those been satisfied?**

20 A. Yes.

21 **Q. Thank you.**

22 MR. GOLDIN: The Pee Dee Citizens
23 Committee found Mr. Coffey qualified as to
24 constitutional qualifications, physical
25 health, and mental stability. The committee

1 found him well qualified in the criteria of
2 professional and academic ability, character,
3 reputation, experience, and judicial
4 temperament. The committee did leave the
5 ethical fitness box unmarked. I assume that
6 was unintentional so I would just note for the
7 record that and any concern about that I've
8 addressed on the record today. That's all I
9 have, Mr. Commission member? Ms. Wall.

10 MS. WALL: Thank you, Mr. Chairman.

11 EXAMINATION

12 (By Ms. Wall)

13 **Q. Mr. Coffey, I'm looking for your -- and it may be**
14 **answered in your PDQ, but I have a question for**
15 **you. Is Billy Coffey your father?**

16 **A. Yes, ma'am.**

17 MS. WALL: Well, then let me just say
18 I've known your father for many, many years
19 and very, very fine lawyer, very fine human
20 being and I'm sure he brought you up very
21 well.

22 MR. COFFEY: Thank you.

23 SENATOR MARTIN: Mr. Chairman?

24 CHAIRMAN CLEMMONS: Senator Martin is
25 recognized.

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EXAMINATION

(By Senator Martin)

Q. One of the few people I know in Manning would be Senator Land. So what would Senator Land say about you?

A. Well, since Ricci, his daughter isn't running, I would hope that he would speak highly of me.

Q. That's all we need to know. That's all we need to know.

CHAIRMAN CLEMMONS: Are there any other questions or comments?

(No response.)

CHAIRMAN CLEMMONS: Hearing none, this will conclude this portion of the screening process. The record will remain open until the report is published and you could be called back at such time if that need should arise.

MR. COFFEY: I understand.

CHAIRMAN CLEMMONS: We thank you for your service and your desire to serve South Carolina and for being with us.

MR. COFFEY: Thank you.

(The candidate is excused.)

CHAIRMAN CLEMMONS: Judge Chellis, thank

1 ordered.

2 [EXHIBIT 19, JUDICIAL MERIT SELECTION
3 COMMISSION PERSONAL DATA QUESTIONNAIRE FOR THE
4 HONORABLE JAMES E. CHELLIS, DATED AUGUST 10TH,
5 2015, ADMITTED.]

6 [EXHIBIT 20, AMENDED JUDICIAL MERIT
7 SELECTION COMMISSION PERSONAL DATA
8 QUESTIONNAIRE FOR THE HONORABLE JAMES E.
9 CHELLIS, OCTOBER 26TH, 2015, ADMITTED.]

10 CHAIRMAN CLEMMONS: Judge, the screening
11 commission has thoroughly investigated your
12 qualifications for continuation on the bench.
13 That inquiry has focused on the nine
14 evaluative criteria dictated by South Carolina
15 law and we find ourselves here today in this
16 hearing as a result of that process. There
17 have been no affidavits filed in opposition to
18 your election and there are no witnesses
19 present to testify other than yourself. At
20 this point, we ask that you turn your
21 attention to Ms. Simpson and respond to any
22 questions she may have.

23 JUDGE CHELLIS: Thank you.

24 CHAIRMAN CLEMMONS: Thank you, sir.

25 MS. SIMPSON: Thank you, Mr. Chairman.

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EXAMINATION

(By Ms. Simpson)

Q. Judge Chellis, you have before you the sworn statement you provided with detailed answers to over 30 questions. Are there any amendments you would like to make at this time to your sworn statement?

A. None other than the ones that I was requested to make and have provided to you.

MS. SIMPSON: Thank you. At this time, Mr. Chairman, I would like to ask that Judge Chellis's sworn statement be entered as an exhibit into the hearing record.

CHAIRMAN CLEMMONS: Thank you, Ms. Simpson. Is there any objection?

(No response.)

CHAIRMAN CLEMMONS: Hearing none, it's so ordered.

[EXHIBIT 21, JUDICIAL MERIT SELECTION COMMISSION SWORN STATEMENT FOR THE HONORABLE JAMES E. CHELLIS, DATED AUGUST 10TH, 2015, ADMITTED.]

Q. Judge Chellis, after serving nearly two years as Master-in-Equity, why do you want to continue serving in this position?

1 A. I like it. It's fun.

2 CHAIRMAN CLEMMONS: Good answer.

3 Q. Thank you. Judge Chellis, the Commission received
4 170 ballot box survey regarding you with nine
5 additional comments. The ballot box survey, for
6 example, contained the following positive comments.
7 He had implemented many new, efficient, and
8 thorough procedures, very thoughtful and
9 considerate in deliberation and ruling, one of the
10 most thoughtful and intellectually vigorous Master-
11 in-Equities in the state. One of the written
12 comments expressed a concern. The comment
13 indicated that you often advocate for pro se or
14 absent litigants rather than ruling on the issues
15 properly before the court. What response would you
16 offer to this concern?

17 A. First of all, I don't think it's a concern. And
18 the second thing is I'm not sure what they mean by
19 advocate. I will tell you that whenever I have a
20 pro se litigant before me, I make sure that the pro
21 se litigant understands the procedural state that
22 they find themselves in and that they understand
23 the rules of court at the point in time at which
24 they appear before me. I try to make that as clear
25 as I can. I suppose somebody who represents a big

1 corporation plaintiff might object to that because
2 they think that I'm telling the pro se litigant too
3 much about where they stand. I'm not really sure
4 what they mean by advocate.

5 The other thing is about non-appearing parties
6 that really I would like to address is the issue
7 that I think many, many, many of the plaintiffs --
8 the foreclosure bar takes the responsibility of
9 making sure that proper due process is given to
10 defendants. So I'm very keen on making sure that
11 the defendant has notice of the proceedings. I
12 think what has happened in the practice of law is
13 instead of it being a professional practice,
14 sometimes it becomes simply a business and
15 these people are pumping out documents that just
16 need to be reviewed and I have reviewed them and
17 I'll look at them and I'll say that's just not
18 going to cut it. It's not good enough. It's not
19 proper pro se. I mean, not proper due process for
20 this party so I'll kick them back. So to that
21 extent, yes, I do make sure the procedural --
22 particularly matters that deal with due process of
23 law are followed and followed somewhat strictly in
24 my court.

25 **Q. Thank you, Judge Chellis. I just have a few**

1 housekeeping issues. Have you sought or received
2 the pledge of any legislator prior to this date?

3 A. No.

4 Q. Have you sought or have you been offered a
5 conditional pledge of support of any legislator
6 pending the outcome of your screening?

7 A. No.

8 Q. Have you asked any third parties to contact members
9 of the General Assembly on your behalf?

10 A. No, ma'am.

11 Q. Are you aware of anyone attempting to intervene in
12 any part of this process on your behalf?

13 A. No, ma'am.

14 Q. Have you contacted any members of the Commission?

15 A. No, ma'am.

16 Q. Do you understand that you are prohibited from
17 seeking a pledge or commitment until 48 hours after
18 the formal release of the Commission's report?

19 A. Yes.

20 Q. Have you reviewed the Commission's guidelines on
21 pledging?

22 A. Yes.

23 Q. As a follow-up, are you aware of the penalties for
24 violating the pledging rules, that is, it is a
25 misdemeanor and upon conviction the violator must

1 **be fined no more than \$1,000 or imprisoned not more**
2 **than 90 days?**

3 A. Yes.

4 MS. SIMPSON: I would like to note that
5 the Lowcountry Citizens Committee reported
6 that Judge Chellis is qualified in the
7 criteria of constitutional qualifications,
8 physical health, mental stability and well
9 qualified to the remaining criteria of ethical
10 fitness, professional and academic ability,
11 character, reputation, experience, and
12 judicial temperament. I would just note for
13 the record that any concerns raised during the
14 investigation regarding Judge Chellis were
15 incorporated in the questioning of him today.
16 Mr. Chairman, I have no further questions.

17 CHAIRMAN CLEMMONS: Thank you, Ms.
18 Simpson. Are there any questions by members?
19 Dean Wilcox.

20 DEAN WILCOX: Just very quickly because I
21 know we're late on time, but given the one
22 concern, I actually would like to commend
23 Judge Chellis, without knowing how you do it
24 exactly, but to take care of the pro se
25 appearances in front of you. They do need

1 judicial help and I would not shy away from
2 doing that because of this.

3 JUDGE CHELLIS: Thank you. Thank you.

4 DEAN WILCOX: Thank you, Mr. Chairman.

5 CHAIRMAN CLEMMONS: Representative Mack.

6 MR. MACK: Thank you, Mr. Chairman. My
7 district runs part into Dorchester County.

8 JUDGE CHELLIS: Yes, sir. How are you
9 today?

10 MR. MACK: Doing fine and I've gotten
11 nothing but good reports back from you and it
12 goes to Dean Wilcox's point that word gets
13 back and it's been good.

14 JUDGE CHELLIS: Good to hear. Thank you.

15 CHAIRMAN CLEMMONS: I have a question for
16 you, sir.

17 JUDGE CHELLIS: Yes, sir?

18 CHAIRMAN CLEMMONS: Is Converse Chellis
19 your father? You can pass that along --

20 JUDGE CHELLIS: I will let the Committee
21 know that I took a picture of two pictures in
22 the waiting room in which he was the chairman
23 of the Rules Committee and sent it to him and
24 I was trying to type Blatt Building, Room 511
25 and I typed, by mistake, Blast Building, Room

1 511.

2 (Commission members laughing and talking
3 over each other.)

4 JUDGE CHELLIS: But true to his
5 accounting background, he quickly corrected me
6 and said don't you mean Blatt Building?

7 CHAIRMAN CLEMMONS: Please pass our best
8 regards to him.

9 JUDGE CHELLIS: I certainly will.

10 RE-EXAMINATION

11 (By Chairman Clemmons)

12 **Q. I practice a good bit of foreclosure law myself and**
13 **I am curious. In your protection of pro se**
14 **defendants, you are giving full faith and credit to**
15 **publication by our publication service?**

16 A. Oh, yeah. Absolutely. Service by publication,
17 which was an informed constructive notice of
18 service of pleadings, is perfectly fine. It's
19 just that we have a case out there. It's called
20 the -- it came from Judge Dukes's office, Wiquist
21 versus Caldwell. In that case, there was -- the
22 court actually looked behind the motion for the
23 order of publication and said that the affidavit
24 itself was defective because you can't just make a
25 conclusory statement by you exercising due

1 diligence in trying to attempt to fine this
2 defendant. Sure, you can repeat the statement
3 that's contained in the language of the statute,
4 but that doesn't tell you what facts you exercise
5 or what were the factual bases the coalition
6 decided that there was due diligence and you could
7 make that representation to the court.

8 So I make sure that the affidavits are clean.
9 You know, an affidavit's supposed to be something
10 that you answer as if you were sworn before a court
11 and we are stating truth and so forth. So yeah, I
12 follow the rule of what an affidavit has to be and
13 if it satisfies me that they have exercised due
14 diligence, I'll make that judgment and grant the
15 order of publication without a doubt.

16 CHAIRMAN CLEMMONS: Thank you. That's
17 very appropriate. I follow that practice
18 myself.

19 JUDGE CHELLIS: Good.

20 CHAIRMAN CLEMMONS: Thank you for the
21 clarification. Are there any other questions
22 or comments?

23 (No response.)

24 CHAIRMAN CLEMMONS: Judge Chellis, this
25 will conclude this portion of the screening

1 process, but the record will remain open until
2 such time that the report is published. You
3 could be called back if that need should arise
4 prior to the publication of the report. We
5 thank you, sir, for being here with us and
6 thank you for your service to South Carolina.

7 JUDGE CHELLIS: Thank you and I want to
8 thank each and every one of you for what you
9 do. Thank you. Take care. God bless.

10 CHAIRMAN CLEMMONS: You, too. Be safe.

11 (The judge is excused.)

12 CHAIRMAN CLEMMONS: Judge, thank you for
13 joining us and thank you for your patience
14 today.

15 JUDGE BOOTH: Thank you. We've been
16 quite content back there.

17 CHAIRMAN CLEMMONS: The staff has taken
18 care of you.

19 JUDGE BOOTH: They have.

20 CHAIRMAN CLEMMONS: Good. We have before
21 us, ladies and gentlemen, the Honorable
22 Richard Lauren Booth, Master-in-Equity for
23 Sumter County, 3rd Circuit. Judge Booth, it's
24 good to have you with us today.

25 EXAMINATION

1 (By Chairman Clemmons)

2 **Q. If you will recall, earlier on in this process, you**
3 **responded to the personal data questionnaire the**
4 **staff provided you.**

5 A. Yes.

6 **Q. Are those responses current and correct today?**

7 A. To the best of my knowledge, they are.

8 **Q. Thank you, sir. Would you have any objection to**
9 **them being included as a part of the record of your**
10 **sworn testimony?**

11 A. No objection.

12 CHAIRMAN CLEMMONS: Thank you very much.

13 Is there any objection?

14 (No response.)

15 CHAIRMAN CLEMMONS: Hearing none, so
16 ordered.

17 [EXHIBIT 22, JUDICIAL MERIT SELECTION
18 COMMISSION PERSONAL DATA QUESTIONNAIRE FOR THE
19 HONORABLE RICHARD LAUREN BOOTH, DATED AUGUST
20 5TH, 2015, ADMITTED.]

21 CHAIRMAN CLEMMONS: Judge, the Judicial
22 Merit Selection Commission has thoroughly
23 reviewed your qualifications for continuation
24 on the bench. That process has used the nine
25 evaluative criteria as set out by South

1 Carolina law. As a result of that process, we
2 find ourselves here today with you, sir.
3 There have been no affidavits filed in
4 opposition to your election nor are there any
5 witnesses, other than yourself, present to
6 testify. We'd ask now that you turn your
7 attention to Mr. Gentry, your screening
8 attorney and respond to his questions.

EXAMINATION

9
10 (By Mr. Gentry)

11 **Q. Judge Booth, you have before you the sworn**
12 **statement you provided the Commission. Are there**
13 **any amendments you'd like to make to your sworn**
14 **statement?**

15 A. No.

16 MR. GENTRY: Mr. Chairman, I'd ask that
17 Judge Booth's sworn statement be entered as an
18 exhibit into the record at this time.

19 CHAIRMAN CLEMMONS: Without objection, so
20 ordered.

21 [EXHIBIT 23, JUDICIAL MERIT SELECTION
22 COMMISSION SWORN STATEMENT FOR THE HONORABLE
23 RICHARD LAUREN BOOTH, DATED AUGUST 5TH, 2015,
24 ADMITTED.]

25 **Q. Judge Booth, after serving over eight years as a**

1 **Master-in-Equity, why do you want to continue to**
2 **serve?**

3 A. Well, I enjoy the job. I feel like I do a good job
4 and it's something that I wish to pursue.

5 MR. GENTRY: I would note for the record
6 that the Commission received 130 ballot box
7 surveys regarding Judge Booth with seven
8 additional comments, all of which were
9 positive.

10 **Q. Judge Booth, have you sought or received the pledge**
11 **of any legislator prior to this date?**

12 A. No.

13 **Q. Have you sought or have you been offered a**
14 **conditional pledge of support of any legislator**
15 **pending the outcome of your screening?**

16 A. No.

17 **Q. Have you asked any third parties to contact members**
18 **of the General Assembly on your behalf?**

19 A. No.

20 **Q. Are you aware of anyone attempting to intervene in**
21 **part of the process on your behalf?**

22 A. No.

23 **Q. Have you contacted any members of the Commission?**

24 A. No.

25 **Q. Do you understand that you are prohibited from**

1 **seeking a pledge or commitment until 48 hours after**
2 **the formal release of the Commission's report?**

3 A. Yes.

4 **Q. Have you reviewed the Commission's guidelines on**
5 **pledging?**

6 A. Yes.

7 **Q. As a follow-up, are you aware of the penalties for**
8 **violating the pledging rules, that is, it is a**
9 **misdemeanor and upon conviction the violator must**
10 **be fined not more than \$1,000 or imprisoned not**
11 **more than 90 days?**

12 A. Yes.

13 MR. GENTRY: I would note that the Pee
14 Dee Citizens Committee found Judge Booth to be
15 well qualified as to ethical fitness,
16 professional and academic ability, character,
17 reputation, experience, and judicial
18 temperament. And qualified as to
19 constitutional qualifications, physical
20 health, and mental stability. The committee
21 commented, "Judge Booth is seen as a problem
22 solver with extreme knowledge and experience."
23 I'd also note for the record that any concerns
24 raised during the investigation regarding the
25 candidate were incorporated in the questioning

1 today. Mr. Chairman, I have no further
2 questions.

3 CHAIRMAN CLEMMONS: Thank you very much.
4 Members of the Commission, do you have
5 questions?

6 (No response.)

7 CHAIRMAN CLEMMONS: Hearing none, Judge,
8 that will conclude this portion of the
9 screening process. As you know, the record
10 will remain open until such time that the
11 report is published and you could be called
12 back as such time if that need should arise.
13 With that, again, we're grateful for your
14 presence and for your patience today.
15 Thank you for your service to South Carolina.

16 JUDGE BOOTH: Thank you all very much.

17 CHAIRMAN CLEMMONS: Yes, sir.

18 (The judge is excused.)

19 CHAIRMAN CLEMMONS: Justice Moore, so
20 good to have you with us today.

21 JUSTICE MOORE: Good afternoon.

22 CHAIRMAN CLEMMONS: We apologize in
23 advance for your being kept waiting as you
24 have today.

25 JUSTICE MOORE: I discovered what it was

1 like waiting in the jury pool room.

2 CHAIRMAN CLEMMONS: I'm sure you did. We
3 have before us the Honorable James E. Moore,
4 South Carolina Supreme Court, Retired Justice.

5 EXAMINATION

6 (By Chairman Clemmons)

7 **Q. Justice Moore, early on in this process, you**
8 **responded to the personal data questionnaire that**
9 **staff provided you. Are your responses contained**
10 **therein still current and correct?**

11 A. They are.

12 **Q. Thank you. Would you have any objection to them**
13 **being included in the record of your testimony**
14 **today?**

15 A. Not at all.

16 CHAIRMAN CLEMMONS: Thank you. Without
17 objection of any member of the Commission, we
18 will include that as an exhibit to the record.

19 [EXHIBIT 24, JUDICIAL MERIT SELECTION
20 COMMISSION PERSONAL DATA QUESTIONNAIRE FOR THE
21 HONORABLE JAMES E. MOORE, DATED AUGUST 5TH,
22 2015, ADMITTED.]

23 CHAIRMAN CLEMMONS: Justice Moore, the
24 Judicial Merit Selection Commission has
25 thoroughly investigated your qualifications

1 for continuation on the bench. Our inquiry is
2 focused on the nine evaluative criteria
3 dictated by South Carolina law. As a result
4 of that process, we have the pleasure of
5 visiting with you today. There have been no
6 affidavits filed in opposition to your re-
7 election or to your continuation on the bench,
8 nor are there any witnesses here today to
9 testify other than yourself. Will you please
10 turn your attention to Ms. Wells and respond
11 to her questions? Thank you.

12 MS. WELLS: Thank you, Mr. Chairman.

13 EXAMINATION

14 (By Ms. Wells)

15 **Q. Justice Moore, you have also before you your sworn**
16 **statement you provided with detailed answers to**
17 **over 30 questions. Are there any amendments you**
18 **want to make at that time?**

19 **A. No amendments.**

20 MS. WELLS: At this time, Mr. Chairman, I
21 would ask that Justice Moore's sworn statement
22 be entered as an exhibit into the hearing
23 record.

24 CHAIRMAN CLEMMONS: Are there any
25 objections?

1 (No response.)

2 CHAIRMAN CLEMMONS: Hearing none, so
3 ordered.

4 [EXHIBIT 25, JUDICIAL MERIT SELECTION
5 COMMISSION SWORN STATEMENT FOR THE HONORABLE
6 JAMES E. MOORE, DATED AUGUST 5TH, 2015,
7 ADMITTED.]

8 **Q. Justice Moore, could you explain why you want to**
9 **continue serving as a retired Supreme Court**
10 **Justice?**

11 A. I retired in the year 2008, when I reached the
12 mandatory retirement age of 72. I discovered
13 rather quickly that I was not going to be a very
14 good retiree. I never developed the hobbies that
15 perhaps I should have, but fortunately the court
16 has called me on a rather regular basis to fill in
17 when one is recused or is absent and that certainly
18 gives me a little feeling of contribution and it
19 helps my problem of the feeling of usefulness when
20 you retire. I do enjoy my time with the court and
21 I think it's a benefit to the court, too, because
22 they don't have to call an active sitting judge off
23 the bench somewhere when they have someone like me
24 that's available.

25 **Q. Thank you. How much time do you spend per month,**

1 **do you say, and do you expect to change whatever**
2 **you're doing with the Supreme Court?**

3 A. It varies, of course, when one is recused.
4 Sometimes I'll sit once or twice a month and
5 sometimes more than that. For instance, this week
6 I sat for the Chief Justice who has had a death in
7 the family. I sat for her on three cases and then
8 I sat for Justice Kittredge one day, who was out of
9 state for that one day. So for this month, I've
10 sat on six cases. So it varies, sometimes, I may
11 not be called at all. It is a pretty good process
12 in that I receive the briefs and the records about
13 the same length of time as an active member would
14 and, of course, I'm always usually the fifth vote
15 so sometimes the decisions are made by the time --

16 MS. WELLS: Members of the Commission and
17 Justice Moore, for the record, I would like
18 the Commission to know that you received 281
19 ballot box surveys regarding Justice Moore
20 with 19 additional comments. There were no
21 negative comments. Several mentioned your
22 even temperament, your wise observations, your
23 intelligence, and your continued willingness
24 to serve as a retired justice as a valuable
25 asset to the judiciary and to the South

1 Carolina Bar.

2 JUSTICE MOORE: Good to hear.

3 MS. WELLS: And I would note that the
4 Piedmont Citizens Committee reported that
5 Justice Moore is well qualified in the
6 evaluative criteria of ethical fitness,
7 professional and academic ability, character,
8 reputation, experience, and judicial
9 temperament, and they found him qualified in
10 the remaining evaluative criteria of
11 constitutional qualifications, physical
12 health, and mental stability. The committee
13 stated in summary, "The Committee unanimously
14 believes that Justice Moore is an excellent
15 and well qualified Supreme Court Justice and
16 we appreciate his continued willingness to
17 serve." Mr. Chairman, I would note for the
18 record that any concerns raised during the
19 investigation regarding the candidate were
20 incorporated into the questioning of the
21 candidate today and I have no further
22 questions.

23 CHAIRMAN CLEMMONS: Thank you, Ms. Wells.
24 Well done. Members of the Commission, do you
25 have any questions for Justice Moore? Yes,

1 ma'am, Ms. Wall.

2 MS. WALL: I actually don't have a
3 question. I simply have a statement. I would
4 like the Commission members to know I've had
5 the extreme pleasure of arguing cases before
6 Justice Moore before he retired and since he's
7 been a retired justice being called back to
8 the Supreme Court. Always, he was thoughtful,
9 asked excellent questions, and held all of the
10 qualities of judicial temperament that we look
11 for and hope to find in all of our judges and
12 justices. He is an asset and continues to be
13 a great asset to the citizens of South
14 Carolina and to the bench. Thank you, Judge.

15 CHAIRMAN CLEMMONS: Well said.
16 Thank you, Ms. Wall. Senator Malloy.

17 SENATOR MALLOY: Thank you, Mr. Chairman.
18 I would also add into my experiences with
19 Justice Moore and I would first say that to
20 Chairman Martin -- he asked about frivolous
21 proceedings and there was one case that I was
22 a party to where I had asked for a sanction
23 against a lawyer for doing something that I
24 thought that he should not have been doing and
25 that case came before the Supreme Court and

1 Justice Moore wrote the opinion on the
2 sanctioning that filed the matter during one
3 of my campaigns. I just let him know that
4 that came about during that time and
5 obviously, he got the decision right, but I
6 would also add that during his time on the
7 court that he has always been that balancing
8 figure on the court. He was stable and gave
9 more credibility to the court. I'll never
10 forget going to his courtroom and they were
11 swearing in the public defender. It might've
12 been Mr. Charles Gross.

13 JUSTICE MOORE: In Greenwood.

14 SENATOR MALLOY: In Greenwood, yes. Just
15 to see the reverent respect that he had around
16 that courthouse and that courtroom was just
17 incredible. They end up watching -- I guess
18 that was probably about five or six, maybe six
19 or seven years ago. I want to thank him
20 publicly for his service and thank him for the
21 mentorship he's given to lawyers around him.
22 Also, thank you for continuing to serve
23 because judges around the state, particularly
24 young judges that we see that come before us,
25 they can end up learning a lot from people

1 like you and your tutelage on the bench. So
2 thank you for continuing to serve.

3 CHAIRMAN CLEMMONS: Also, well said.
4 Thank you so much. Senator Martin.

5 SENATOR MARTIN: I would only concur,
6 Justice Moore, in all that's been said and add
7 that it's just been a real pleasure over the
8 years to get to know you and I recall your
9 election to the Circuit bench and to the
10 Supreme Court bench and you've just done a
11 terrific job. Has relatives in Pickens
12 County, I might add.

13 JUSTICE MOORE: I married a girl from
14 there, the big city of Six Mile.

15 SENATOR MARTIN: There you go. I read
16 some of your decisions every now and then. I
17 don't read them all like the lawyers would,
18 but I do that occasionally and I'm just very
19 proud of you.

20 JUSTICE MOORE: Thank you, sir.

21 CHAIRMAN CLEMMONS: Thank you, Senator
22 Martin. Any other comments or questions?
23 Representative Bannister is recognized.

24 MR. BANNISTER: I would ask for unanimous
25 consent that we waive the rules and find

1 Justice Moore qualified right now.

2 CHAIRMAN CLEMMONS: I'd like that. I'll
3 second it.

4 MR. BANNISTER: We did make you wait two
5 and a half hours.

6 JUSTICE MOORE: I did get to eat a
7 sandwich so it was good.

8 CHAIRMAN CLEMMONS: All those in favor of
9 finding Justice Moore qualified, please raise
10 your right hand.

11 (The Commission members vote.)

12 CHAIRMAN CLEMMONS: Those opposed?

13 (No response.)

14 SENATOR MARTIN: Proxy by Senator Campsen
15 is an "aye."

16 CHAIRMAN CLEMMONS: By acclamation,
17 Justice Moore is found qualified for
18 continued service on the bench. Thank you,
19 Justice Moore, for your service over the years
20 to South Carolina and many more to come.

21 JUSTICE MOORE: As I understand it,
22 that'll give me four more years to the year
23 2020 --

24 CHAIRMAN CLEMMONS: We'll look forward to
25 seeing you come back.

1 JUSTICE MOORE: -- and I hope you ladies
2 and gentlemen are here and I can come back.

3 CHAIRMAN CLEMMONS: Thank you so much.
4 (The Justice is excused.)

5 CHAIRMAN CLEMMONS: Judge Alford, it's
6 good to have you here today.

7 JUDGE ALFORD: Thank you, Mr. Chairman.

8 CHAIRMAN CLEMMONS: Thank you for being
9 with us and thank you for your patience today.

10 JUDGE ALFORD: Sure.

11 CHAIRMAN CLEMMONS: Ladies and gentlemen,
12 we have before us the Honorable Levy S.
13 Alford, Circuit Court retired judge.

14 EXAMINATION

15 (By Chairman Clemmons)

16 **Q. Judge Alford, you responded to the personal data**
17 **questionnaire that staff provided you sometime ago.**
18 **Are your responses current and correct today?**

19 A. Yes.

20 **Q. Thank you. Would you have any objection to us**
21 **including your responses as a part of the record of**
22 **your sworn testimony today?**

23 A. No, sir. No objection.

24 CHAIRMAN CLEMMONS: Thank you very much.
25 Are there any objections by Commission

1 members?

2 (No response.)

3 CHAIRMAN CLEMMONS: Hearing none, so
4 ordered.

5 [EXHIBIT 26, JUDICIAL MERIT SELECTION
6 COMMISSION PERSONAL DATA QUESTIONNAIRE FOR THE
7 HONORABLE LEVY S. ALFORD, DATED JULY 31ST,
8 2015, ADMITTED.]

9 CHAIRMAN CLEMMONS: Judge, the Judicial
10 Merit Selection Commission has thoroughly
11 investigated your qualifications for
12 continuation on the bench. That inquiry has
13 been focused on the nine evaluative criteria
14 set out by South Carolina law. As a result of
15 that process, we are honored and pleased to
16 have you before us and I'm please to report,
17 also, that no affidavits have been filed in
18 opposition to your election and there are no
19 other witnesses present to testify today.
20 Would you please now turn your attention to
21 Ms. Dean and respond to any questions she may
22 have? Thank you.

23 MS. DEAN: Thank you, Mr. Chairman.

24 EXAMINATION

25 (By Ms. Dean)

1 **Q. Judge Alford, you have before you the sworn**
2 **statement you provided with detailed answers to**
3 **over 30 questions. Are there any amendments you'd**
4 **like to make to that sworn statement at this time?**

5 A. No, ma'am.

6 MS. DEAN: Thank you, sir. At this time,
7 Mr. Chairman, I would like to ask that Judge
8 Alford's sworn statement be entered as an
9 exhibit to the hearing record.

10 CHAIRMAN CLEMMONS: Thank you. Is
11 there an objection?

12 (No response.)

13 CHAIRMAN CLEMMONS: Hearing none, so
14 ordered.

15 [EXHIBIT 27, JUDICIAL MERIT SELECTION
16 COMMISSION SWORN STATEMENT FOR THE HONORABLE
17 LEVY S. ALFORD, DATED JULY 31ST, 2015,
18 ADMITTED.]

19 **Q. Judge Alford, you are being screened for**
20 **appointment as a retired judge on the Circuit Court**
21 **bench. Why would you like to continue serving?**

22 A. You know, I could answer that probably all day. I
23 love the law. I'm teaching a course up at
24 Charlotte Law School now and I talked to the Dean
25 up there and we talked about maybe teaching it

1 again, but in preparation I tell her I love the
2 law. I love to sit down and read cases and I
3 don't want to be disconnected from it.

4 When I was required to retire, I did not want
5 to retire, but I was required to retire. I think
6 I'm in my prime and most comfortable serving as a
7 circuit judge now, but I had to retire and I need
8 to stay busy with doing something, something
9 productive. I do not want to lose my association
10 with the other circuit judges or the like and the
11 court system and the justice system. I just want
12 to stay connected to it.

13 **Q. Thank you, Judge. This next question is a two part**
14 **question so please forgive me. Judge Alford, how**
15 **much time do you spend per month in your capacity**
16 **as a retired judge, and if reappointed, do you**
17 **wish to alter that workload?**

18 **A.** Well, I'm open to altering it. Let me be honest
19 with you about that. What I agreed to do when I
20 retired -- the way it is, you've got to work three
21 weeks a month to get any pay whatsoever. And in my
22 case, I have 42 years of service credit in the
23 judicial retirement so, obviously, I max it out
24 and I draw 90 percent. So if I work three weeks a
25 month, I get paid ten percent of my salary.

1 Three weeks a month is like full-time because by
2 the time you take away your chambers time,
3 holidays, and vacation, you're basically working
4 full-time for ten percent of the salary and, you
5 know, so I don't want to do that, okay. If I'm
6 going to work full-time -- here's the other thing.
7 You don't have a law clerk. You have no
8 administrative assistant to do any typing or
9 anything for you, to do some of that for you, and
10 so you have to do all of that yourself and then you
11 get paid ten percent of your salary.

12 I just didn't want to do that and so if you
13 work less than three weeks a month, you don't get
14 paid. So what I agreed to do was to do a fill-in
15 role. Anytime they need a judge to fill in for
16 somebody who's sick, out, that sort of thing, I'll
17 do it. So she just simply sends me a request by
18 email and I respond and will do it. I've done it
19 quite a bit. I've filled in about 13 or 14 weeks
20 so far this year and I'm scheduled to fill in for
21 a judge that's having some surgery the week of
22 November 30th; I'm filling for him. So that's
23 what I agreed to do. Of course, I don't get paid
24 and you not only don't get paid. You don't have a
25 law clerk. You don't have an administrative

1 assistant and I don't have an office because York
2 County just floated a bond issue to provide a lot
3 more office space, but right now, they have no room
4 for me. At the Moss Justice Courthouse downtown,
5 Civil Court is closed down; they're renovating. So
6 I'm having to work at home out of my office. I buy
7 all my office supplies. They won't pay for my
8 office supplies. I have to do that. My phone
9 bill, long distance, that I've got to pay for
10 myself.

11 So it costs me money out of my pocket to serve
12 as a Circuit Court judge retired, although you get
13 per diem if you travel. Obviously, you get
14 reimbursed. At any rate, that's the role I agreed
15 to play now. If the legislature -- this past year,
16 there was a request that they pay retired judges on
17 a pro rata basis per week or something like that
18 and a bill passed. I mean, not a bill, but a
19 proviso passed and got all the way passed the Joint
20 Conference Committee and then it got to the
21 Governor's office and the Chief Justice asked her
22 to veto it and she did. So at any rate, that's
23 where we are, but if something happens, I certainly
24 would be open to holding more court. I'd be quite
25 willing to do that.

1 Q. Thank you, Judge. Judge, the Commission received
2 217 ballot box surveys regarding you with 17
3 additional comments. The ballot box survey had
4 very several positive comments that state things,
5 for example, good judge, good man, excellent judge
6 and an asset to the judiciary. Eight of the
7 written comments expressed concerns regarding
8 judicial temperament. What response would you have
9 for those sorts of concerns?

10 A. Well, let me just say this. I was surprised when
11 you told me that and disappointed by it. I don't
12 think it was meant as constructive criticism by the
13 person who made it, but I'll take it as
14 constructive criticism and I certainly will be
15 mindful of it and I have been mindful of it.
16 However, you know, I've been a judge for 37 years.
17 Obviously, somewhere along the way, you're going to
18 hurt somebody's feelings. There are lawyers out
19 there who are difficult. The judges know who they
20 are and they can push your buttons a little bit
21 sometimes.

22 I have very high standards for myself and I
23 have very high standards for lawyers, as well. And
24 I want to say that, you know, I usually try to talk
25 to them in chambers if I'm having a problem with

1 them, but sometimes you can't do that because
2 they're acting out in the courtroom and there's not
3 much else you can do. I don't think I have a
4 problem with that. Now, when I was holding status
5 conferences as administrative judge, had some
6 responsibilities, I had a little less patience.
7 I've got a lot more patience now as a retired
8 judge; I don't have those responsibilities. So I
9 think I have a lot of patience. I've always been
10 -- I believe if you check, you'd find I have been
11 excellent with pro se's, that I take the time and
12 patience and work with them. I think if you
13 check with the clerk of courts, bailiffs, and
14 people I work with, they'll tell you they loved
15 working with me. They always want me to come back
16 and hold court there and I have some great
17 relationships.

18 Now, I'm thinking about why some attorneys
19 would say that. I think it's just something
20 they're holding on to with regard to something that
21 happened maybe in the courtroom, but, you know,
22 they can't criticize my knowledge of the law. I've
23 been a judge for 37 years and I can count my
24 reversals on these two hands. So I don't think
25 that's a problem.

1 I've been a judge for 37 years and I can count
2 the days I've been absent for medical or any other
3 reason on my two hands in 37 years. So they're not
4 going to attack my work record. So if they're
5 going to say something, what are they going to say.
6 They can say well, we don't like his temperament.
7 There are a few lawyers I would like to think, if
8 they would take the criticism constructively as I'm
9 taking it now, maybe they can learn from it. That
10 was the idea, but anyway, be as it may. I'm
11 mindful of it. I will be mindful of it. It's much
12 easier for me to have patience now. You know, the
13 time that I was in the 16th Circuit, we'd been
14 number one in General Sessions caseload, the
15 age of them, and number one in the state for all
16 of that time. And Civil Court, we've been in the
17 top four in the state all that time. And for most
18 of that time, anyway, and we are now and had been
19 when I left. So I think there's not a lot else to
20 criticize except to say, you know, maybe he lost
21 his temper at some point in time.

22 MS. DEAN: Thank you, Judge. I would
23 note that the Upstate Citizens Committee found
24 Judge Alford qualified in the criteria of
25 constitutional qualifications, physical

1 health, and mental stability. The committee
2 found him well qualified in the remaining
3 criteria. The committee stated, "The
4 Committee unanimously believes that Judge
5 Alford is and excellent and well qualified
6 Circuit Court judge and we appreciate his
7 continued willingness to serve." I note for
8 the record that any concerns raised during the
9 investigation regarding the candidate were
10 incorporated into today's questioning. Mr.
11 Chairman, I have no further questions.

12 CHAIRMAN CLEMMONS: Thank you, Ms. Dean.
13 Any members of the commission have any
14 questions?

15 (No response.)

16 CHAIRMAN CLEMMONS: Okay. Thank you very
17 much, Judge, for being with us today. This
18 will conclude this portion of the screening
19 process. The record will remain open until
20 such time that the report is made final,
21 Judge, and it is possible that you could be
22 called back prior to that time. Judge, again,
23 we are grateful for your past service,
24 present, and future service to South Carolina
25 on the bench. Thank you so much.

1 JUDGE ALFORD: Thank you and if you'd
2 allow me one other thing to say. I know y'all
3 have a long day; I'm not going to hold you. I
4 would point out, the Charlotte Observer just
5 had an article in the paper up there
6 criticizing the election of judges by popular
7 election where they're raising all this money.
8 So it's finally come to their attention that
9 that's not a good idea. And I'll tell you
10 this, I was at a judicial conference when I
11 was a young judge just starting out as a
12 circuit judge and we had a group that met
13 together. We had an advisor and he was
14 guy that came out there frequently and met
15 with us and he was an Appeals Court judge
16 from Texas and they were talking to him. He
17 was supposed to be kind of like a mentor to
18 us. We're talking and they asked him about
19 his election, something like that, how
20 much money he had to raise and he said he had
21 to raise like five or \$6 million for one
22 state-wide campaign to get elected as a
23 Appellate Court judge in Texas. And they
24 said, "Where'd you get all that money?" Law
25 firms mostly gave it to him and I was

1 appalled. And I said I was appalled and that
2 then made some of my group not happy with me
3 because they're all elected and two or three
4 of them weren't even lawyers and they were
5 popularly elected. I was appalled at that. I
6 couldn't believe it. It made me appreciate
7 this system and I think now North Carolina --
8 I think we and Virginia have similar systems
9 and they're the best. So I hope you all never
10 do anything to change it as a legislator.
11 It's the very best system. Thank you for your
12 time.

13 CHAIRMAN CLEMMONS: Senator Malloy is
14 recognized.

15 SENATOR MALLOY: Judge, thank you for
16 that. I have been to the independents of the
17 judiciary at the ABA and have shared comments
18 with other judges and as I travel around the
19 country, I tell them about our process and
20 obviously, at first glance, they say oh, you
21 get a chance to elect the judges. You're in
22 the legislature, but once they understand the
23 whole process, they see how in depth it is and
24 they have great appreciation for it so
25 thank you for your knowledge.

1 JUDGE ALFORD: Thank you. The Dean up at
2 the law school -- one of the Deans that I work
3 with -- I taught a course at Charlotte Law
4 School this fall. I just finished up and
5 reviewed, they're going to take their exam now
6 and I'm going to get to grade those exams.
7 But I was talking to the Dean up there and she
8 wasn't familiar with our system. She's from
9 up north and I was telling her about our
10 system and she was amazed by it. I
11 was telling her what all was involved in it
12 and how it works. So keep up the good work.

13 CHAIRMAN CLEMMONS: Thank you, Judge.

14 JUDGE ALFORD: Thank you very much.

15 CHAIRMAN CLEMMONS: Take care.

16 (The judge is excused.)

17 CHAIRMAN CLEMMONS: Welcome, Judge. Good
18 to have you with us.

19 JUDGE GOLDSMITH: Great to be here.

20 CHAIRMAN CLEMMONS: Thank you for
21 being here and for your patience today.

22 JUDGE GOLDSMITH: Certainly.

23 CHAIRMAN CLEMMONS: Ladies and gentlemen,
24 we have before us the Honorable Brooks P.
25 Goldsmith, Circuit Court Judge, retired.

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EXAMINATION

(By Chairman Clemmons)

Q. Judge, you provided this Commission with your response to our personal data questionnaire and I understand you also provided an amendment to those responses today.

A. I have.

Q. Thank you. With that amendment, are your responses complete and correct and current?

A. Yes.

Q. Thank you very much.

A. To the best of my knowledge.

Q. Do you have any objection to us including those responses, as amended, to be a part of the record of your sworn testimony today?

A. I do not have an objection.

CHAIRMAN CLEMMONS: Thank you. Does any member have an objection?

(No response.)

CHAIRMAN CLEMMONS: Without objections, so ordered.

[EXHIBIT 28, JUDICIAL MERIT SELECTION COMMISSION PERSONAL DATA QUESTIONNAIRE FOR THE HONORABLE BROOKS P. GOLDSMITH, DATED AUGUST 5TH, 2015, ADMITTED.]

1 CHAIRMAN CLEMMONS: Judge, the Judicial
2 Merit Selection Commission has thoroughly
3 investigated your qualifications and ability
4 to return to the bench as a retired judge.
5 Our inquiry is focused on the nine evaluative
6 criteria and as a result of the process, we
7 have the honor of being with you today. There
8 have been no affidavits filed in opposition to
9 your election and there are no other witnesses
10 here to testify. With that, we would ask that
11 you turn your attention to Ms. Dean and
12 respond to any questions she may have.

13 JUDGE GOLDSMITH: Certainly.

14 MS. DEAN: Thank you, Mr. Chairman.

15 EXAMINATION

16 (By Ms. Dean)

17 **Q. Judge Goldsmith, you have before you the sworn**
18 **statement you provided with detailed answers to**
19 **over 30 questions. Are there any amendments you'd**
20 **like to make to that at this time?**

21 **A. No.**

22 MS. DEAN: At this time, Mr. Chairman,
23 I'd like to ask that Judge Goldsmith's sworn
24 statement be entered as an exhibit to the
25 hearing record.

1 CHAIRMAN CLEMMONS: Is there any
2 objection?

3 (No response.)

4 CHAIRMAN CLEMMONS: Hearing none, so
5 ordered.

6 [EXHIBIT 29, JUDICIAL MERIT SELECTION
7 COMMISSION SWORN STATEMENT FOR THE HONORABLE
8 BROOKS P. GOLDSMITH, DATED JULY 29TH, 2015,
9 ADMITTED.]

10 **Q. Judge Goldsmith, you are being screened for**
11 **appointment as a retired judge on the Circuit Court**
12 **bench. Why do you wish to continue to serve?**

13 A. Actually, I didn't want to retire. The
14 legislature decided I had to. I enjoy the job and
15 didn't really want to quit.

16 **Q. Thank you, Judge. How much time do you spend per**
17 **month in your capacity as a retired judge and if**
18 **you're reappointed, would you alter this workload?**

19 A. I'm sorry. I didn't understand the question. How
20 much time what?

21 **Q. How much time do you spend as a retired judge now**
22 **and if you're reappointed, would you want to alter**
23 **that workload in any way?**

24 A. Now, I'm working either two or three weeks a month,
25 depending on what I'm assigned to do. I would like

1 to continue doing at least that much, if not more.

2 **Q. Thank you, Judge. Judge, the Commission received**
3 **265 ballot box surveys regarding you with 18**
4 **additional comments. The ballot box survey**
5 **included many positive comments, such as excellent**
6 **judge, very fair, patient and fair, extremely**
7 **smart, and well-reasoned. Two of the comments**
8 **expressed concerns by disagreeing with your**
9 **rulings. Obviously, this is not an Appellate**
10 **commission, but could you please just explain to**
11 **the Commission your process when going about making**
12 **a ruling, how you consider the arguments?**

13 **A. Well, first of all, you have to listen to both**
14 **sides. Usually, there are at least two sides to**
15 **every argument. Not always, but most of the time**
16 **there are. You listen to what they have to say.**
17 **As for legal argument, use your own research on**
18 **information about what the law is and apply the**
19 **facts as you see them to the law.**

20 MS. DEAN: Thank you, Judge. I would
21 note that the Citizens Committee --

22 **Q. In looking back at that question, I believe the**
23 **concerns were staying up with Appellate decisions**
24 **and in our earlier conversation, I asked you how**
25 **you stayed abreast of Appellate Court decisions.**

1 A. By reading the event sheets as well as other
2 publications.

3 MS. DEAN: That's the way to do it. I
4 would note the Lowcountry Citizens Committee
5 report found Judge Goldsmith well qualified in
6 all the criteria except for the constitutional
7 qualifications, and physical health, and
8 mental stability, which qualified is the
9 highest choice in that option. I would note
10 for the record that any concerns raised
11 during the investigation regarding the
12 candidate were incorporated into today's
13 questioning and Mr. Chairman, I have no
14 further questions.

15 CHAIRMAN CLEMMONS: Thank you very much,
16 Ms. Dean. Are there any questions? Senator
17 Malloy is recognized.

18 SENATOR MALLOY: Thank you, Mr. Chairman.
19 Obviously, I knew Judge Goldsmith back when he
20 was practicing law and we had cases together
21 on least one or two occasions. I've seen him
22 in court and appeared before him. Judge, I
23 would just add to say thank you for coming
24 here and being a part of this process. I
25 share a little bit of responsibility

1 for having everybody to come in here to be
2 vetted. I think it adds credence to what
3 we're doing now. In the same thing, I have
4 filed a bill in the General Assembly in
5 previous times saying that we need to extend
6 the mandatory retirement or get rid of it and
7 I think the fact that with you coming before
8 us and the previous judges coming before us
9 shows that -- of course, I didn't realize that
10 you were mandatory retired because of your
11 youthful appearance.

12 JUDGE GOLDSMITH: Yes.

13 SENATOR MALLOY: More youthful than what
14 mandatory retirement states, but I think it
15 adds credence to the fact that we also have
16 wisdom and we have experience that is good for
17 the process and I hope that the fact that you
18 continue to serve and serve ably will add
19 credence to the fact that we need to get rid
20 of what I think is an unconstitutional law.

21 JUDGE GOLDSMITH: Thank you, Senator
22 Malloy.

23 CHAIRMAN CLEMMONS: Thank you Senator
24 Malloy. Any other comments or questions?

25 (No response.)

1 CHAIRMAN CLEMMONS: Hearing none, Judge
2 Goldsmith, thank you so much for being here
3 and thank you, again, for your patience today.
4 That concludes this portion of our screening
5 process. The record will remain open until
6 such time the report is published. You
7 could be asked to return to visit with us
8 again if that need should arise. Again, we
9 want to thank you for being with and thank you
10 for your service to South Carolina.

11 JUDGE GOLDSMITH: It was my pleasure.

12 CHAIRMAN CLEMMONS: Have a good day, sir.

13 DEAN WILCOX: Thank you, judge.

14 JUDGE GOLDSMITH: Thank you all.

15 SENATOR MALLOY: And Mr. Chairman, I may
16 want to change that a bit. I don't know if
17 it's unconstitutional since it's tied to the
18 retirement system, but I do think it is
19 questionable and whether or not it adds
20 credence to the fact that we need to continue
21 revisiting in light of the obvious economy and
22 what the last gentleman would end up bringing
23 to the bench.

24 (The judge is excused.)

25 CHAIRMAN CLEMMONS: Ladies and gentlemen,

1 we need to take a brief break for the benefit
2 of the court reporter. We will return as soon
3 as the court reporter returns.

4 (Off the record.)

5 CHAIRMAN CLEMMONS: Judge Pyle, thank you
6 so much for being with us this afternoon and
7 thank you for your patience throughout the
8 morning.

9 JUDGE PYLE: No problem.

10 CHAIRMAN CLEMMONS: Ladies and gentlemen,
11 we have before us the Honorable Charles Victor
12 Pyle, Jr., Circuit Court Judge, retired.

13 EXAMINATION

14 (By Chairman Clemmons)

15 **Q. Judge Pyle, you responded to the Commission's**
16 **personal data questionnaire that was forwarded to**
17 **you early in this process. Are the responses that**
18 **you provided complete, current, and correct?**

19 A. To the best of my ability, yes.

20 **Q. Thank you, sir. Would you have any objection to us**
21 **making those responses a part of the record of your**
22 **sworn testimony today?**

23 A. Not at all. Not at all.

24 CHAIRMAN CLEMMONS: Thank you. Is there
25 an objection by any Commission member?

1 (No response.)

2 CHAIRMAN CLEMMONS: Hearing none, it's so
3 ordered.

4 [EXHIBIT 30, JUDICIAL MERIT SELECTION
5 COMMISSION PERSONAL DATA QUESTIONNAIRE FOR THE
6 HONORABLE CHARLES VICTOR PYLE, JR., DATED
7 AUGUST 5TH, 2015, ADMITTED.]

8 CHAIRMAN CLEMMONS: Judge Pyle, the
9 Judicial Merit Selection Commission has
10 thoroughly investigated your qualifications
11 for continuation on the bench as a retired
12 judge. Our inquiry is focused on nine
13 evaluative criteria and as a result of that
14 process, we have the honor of being with you
15 today. That process has resulted in no
16 affidavits being filed in opposition to your
17 continuation. There are also no witnesses
18 present to testify today other than yourself.
19 We'd ask that you now turn your attention to
20 Ms. Dean and respond to her questions, please.
21 Thank you.

22 MS. DEAN: Thank you, Mr. Chairman.

23 EXAMINATION

24 (By Ms. Dean)

25 **Q. Judge Pyle, you also have before you the sworn**

1 **statement you provided with detailed answers to**
2 **over 30 questions. Are there any amendments you'd**
3 **like to make to that sworn statement now?**

4 A. No.

5 MS. DEAN: Great. At this time, Mr.
6 Chairman, I'd like to ask that Judge Pyle's
7 sworn statement be entered as an exhibit into
8 the hearing record.

9 CHAIRMAN CLEMMONS: Is there any
10 objection?

11 (No response.)

12 CHAIRMAN CLEMMONS: Hearing none, so
13 ordered.

14 [EXHIBIT 31, JUDICIAL MERIT SELECTION
15 COMMISSION SWORN STATEMENT FOR THE HONORABLE
16 CHARLES VICTOR PYLE, JR., DATED AS AUGUST 6TH,
17 2015, ADMITTED.]

18 **Q. Judge Pyle, you are being screened for**
19 **reappointment as a retired judge on the Circuit**
20 **Court bench. Why do you wish to continue to serve?**

21 A. I enjoy working very much doing what I do. I have
22 been holding on the civil and criminal jury trials
23 and it's my intention to stop that and to do just
24 guilty pleas.

25 **Q. Thank you, Judge. The Commission received 323**

1 ballot box surveys regarding you with 23 additional
2 comments. The ballot box survey, for example,
3 contained the following positive comments. One of
4 the best of all times and needs to teach practical
5 judging and a truly fine gentleman, attorney, and
6 judge. Five of the written comments also expressed
7 concerns. One of the concerns raised addressed
8 judicial temperament. What response would you
9 offer to that concern?

10 A. I would say that's probably true in some cases. I
11 guess I have a problem with some attorneys who beat
12 a dead horse in court, ask improper questions, and
13 I get a little bit tired of that, but other than
14 that, I don't think I have any real big problems.

15 MS. DEAN: Thank you, Judge. I would
16 note that the Upstate Citizens Committee found
17 Judge Pyle qualified in the criteria of
18 constitutional qualifications, physical
19 health, and mental stability. The committee
20 found him well qualified in the remaining
21 criteria. I would note for the record any
22 concerns raised during this investigation were
23 incorporated into today's questioning and Mr.
24 Chairman, I have no further questions.

25 CHAIRMAN CLEMMONS: Thank you very much,

1 Ms. Dean. Are there any questions by any
2 member of the Commission? Senator Martin is
3 recognized.

4 SENATOR MARTIN: Mr. Chairman and the
5 Commission, I would only say that Judge
6 Pyle is an institution in our circuit and in
7 our region of the state. He served with
8 distinction in the House, then went to the
9 bench, and has been there ever since. What
10 was the first year when you went to the bench
11 and was elected Circuit Judge, in the 70's,
12 wasn't it?

13 JUDGE PYLE: Yes. I started out as the
14 county court judge when Judge Jim Price went
15 on circuit. And then in 1979, they had six
16 at-large circuit judges and that's when I
17 decided to do that. He died and then I
18 took his residency.

19 SENATOR MARTIN: You're just very well
20 thought of and we're just delighted you're
21 still there to give folks good advice and
22 counsel.

23 JUDGE PYLE: Thank you so much.

24 CHAIRMAN CLEMMONS: Thank you. Any other
25 questions or comments?

1 (No response.)

2 CHAIRMAN CLEMMONS: Hearing none, Judge
3 Pyle, that concludes this portion of our
4 screening process. The record will remain
5 open until such time that the report is
6 published.

7 JUDGE PYLE: Thank you very much.

8 CHAIRMAN CLEMMONS: You could be called
9 back at such time if that need should arise.
10 Judge, again, we are honored to have you with
11 us. We're grateful for your years of service
12 to the state and we look forward to your
13 continued service.

14 JUDGE PYLE: Thank you very much.

15 CHAIRMAN CLEMMONS: Thank you, sir.

16 JUDGE PYLE: I appreciate it.

17 DEAN WILCOX: Good to see you, judge.

18 (The judge is excused.)

19 CHAIRMAN CLEMMONS: Judge Guess, thank
20 you so much for joining us and thank you for
21 your patience throughout the day.

22 JUDGE GUESS: Thank you for having me.
23 I'm glad to be here.

24 CHAIRMAN CLEMMONS: You have the
25 unenviable position of riding tail point,

1 being the very last person to be screened
2 today. Thank you so much.

3 JUDGE GUESS: You're welcome.

4 CHAIRMAN CLEMMONS: Ladies and gentlemen,
5 we have before us the Honorable Robert E.
6 Guess, Family Court, retired judge.

7 EXAMINATION

8 (By Chairman Clemmons)

9 **Q. Judge, you provided this Commission with your**
10 **responses to the personal data questionnaire some**
11 **time ago. Are those responses still current and**
12 **correct?**

13 A. Yes.

14 **Q. Thank you. Would you have any objection to**
15 **us including those responses as a part of the**
16 **record of your sworn testimony today?**

17 A. No, I would not.

18 CHAIRMAN CLEMMONS: Thank you. Does any
19 Commission member have an objection?

20 (No response.)

21 CHAIRMAN CLEMMONS: Hearing none, it's so
22 ordered.

23 [EXHIBIT 32, JUDICIAL MERIT SELECTION
24 COMMISSION PERSONAL DATA QUESTIONNAIRE FOR THE
25 HONORABLE ROBERT E. GUESS, DATED AUGUST 3RD,

1 2015, ADMITTED.]

2 CHAIRMAN CLEMMONS: Judge Guess, the
3 Commission has thoroughly investigated your
4 qualifications for continuation on the bench.
5 Our inquiry is focused on the nine evaluative
6 criteria dictated to us by South Carolina law.
7 As a result of that process, we have the honor
8 of having you before us today. Also as a
9 result of that process, we have no witnesses
10 here to testify other than yourself and no
11 affidavits have been filed in opposition to
12 your election or continuation. We would ask
13 now that you turn your attention to our
14 screening attorney, Ms. Simpson.

15 MS. SIMPSON: Thank you, Mr. Chairman.

16 EXAMINATION

17 (By Ms. Simpson)

18 **Q. Judge Guess, you have before you the sworn**
19 **statement you provided with detailed answers to**
20 **over 30 questions. Are there any amendments you'd**
21 **like to make at this time to your sworn statement?**

22 **A. No, there are not.**

23 MS. SIMPSON: At this time, Mr. Chairman,
24 I'd like to ask that Judge Guess's sworn
25 statement be entered as an exhibit into the

1 hearing record.

2 CHAIRMAN CLEMMONS: Are there any
3 objections?

4 (No response.)

5 CHAIRMAN CLEMMONS: Hearing none, so
6 ordered.

7 [EXHIBIT 33, JUDICIAL MERIT SELECTION
8 COMMISSION SWORN STATEMENT FOR THE HONORABLE
9 ROBERT E. GUESS, DATED AUGUST 3RD, 2015,
10 ADMITTED.]

11 **Q. Judge Guess, you are being screened for appointment**
12 **as a retired judge on the Family Court bench. Why**
13 **do you want to continue serving as a retired Family**
14 **Court judge?**

15 A. Well, I like to do it to stay in touch, for one
16 thing, but I also like to think that I'm making a
17 contribution to a system that's been very good to
18 me and to my family and to help out when I'm
19 needed. It does keep me in touch with my
20 fellow judges in the system and I get an
21 opportunity to attend the seminars that are
22 provided for judges and just to help out. Really,
23 to keep my hand in, in case you need me.

24 **Q. Thank you. Judge Guess, how much time do you spend**
25 **per month in your capacity as a retired judge and**

1 **do you wish to alter this workload if you are**
2 **reappointed as a retired judge?**

3 A. Well, at this point, I'm doing minimal work. I
4 really hold court only one week every three months
5 and I'm on call when they need me. I have not
6 chosen to work as a full-time retired judge and
7 that's always subject to change. I've only
8 been retired for two years so I'm just getting the
9 hang of that status. So at some point, I may
10 change the number of weeks that I work.

11 **Q. Thank you. The Commission received 147 ballot box**
12 **surveys regarding you with five additional**
13 **comments. The ballot box survey, for example,**
14 **contained the following positive comments. A**
15 **most experienced family court judge, quiet,**
16 **thoughtful, deliberate, and caring. He has been a**
17 **solid judge throughout his tenure. Two of the**
18 **written comments expressed concerns, indicating**
19 **unpredictability and inaccuracy of your rulings.**
20 **What response would you offer to these concerns?**

21 A. Unpredictability -- it's always been my belief that
22 I'm supposed to rule on the facts that I hear and I
23 don't think there's a typical case. For a ruling
24 to be predictable, the cases would have to be
25 typical and every one is different. That's my

1 response to that. As to the inaccuracy of my
2 rulings, I would suggest that in a trial there's
3 always two sides and the side that loses considers
4 that to be an inaccurate ruling. I think a review
5 of the Appellate opinions that have been rendered
6 as a result of me being appealed would indicate
7 that the Appellate Courts have agreed with me
8 much more often than they have disagreed.

9 MS. SIMPSON: Thank you, Judge Guess. I
10 would like to note that the Piedmont Citizens
11 Committee found Judge Guess well qualified in
12 the criteria of ethical fitness, professional
13 and academic ability, character, and
14 reputation. They found Judge Guess to be
15 qualified in the remaining criteria of
16 constitutional qualifications, physical
17 health, mental stability, experience, and
18 judicial temperament. I would just note for
19 the record that any concerns raised during the
20 investigation regarding Judge Guess were
21 incorporated into the questioning of him
22 today. Mr. Chairman, I have no further
23 questions.

24 CHAIRMAN CLEMMONS: Thank you very much,
25 Ms. Simpson. Are there any questions or

1 comments?

2 DEAN WILCOX: Mr. Chairman.

3 CHAIRMAN CLEMMONS: Yes. Dean Wilcox.

4 DEAN WILCOX: As one as strives toward
5 retirement, I would just like to acknowledge
6 that we finally have someone who is actually
7 not flunking retirement. He is apparently
8 learning how to retire and I think that is a
9 remarkable testament to his good judgement.
10 Thank you very much for your service.

11 JUDGE GUESS: Thank you, Dean Wilcox.

12 CHAIRMAN CLEMMONS: Thank you, Dean
13 Wilcox. Judge Guess, that concludes
14 this portion of our screening process. The
15 record will remain open until such time that
16 the report is published. You could be asked
17 to revisit with us at such time if that need
18 should arise. Judge, again, we want to thank
19 you for your service to South Carolina, your
20 service on the bench, and look forward to more
21 years thereof. Thank you.

22 JUDGE GUESS: Thank you, Mr. Chairman.

23 Thank you for your consideration.

24 (The judge is excused.)

25 CHAIRMAN CLEMMONS: As a matter of

1 housekeeping with regard to Judge Burch, is
2 there a motion to carry that over until the
3 spring?

4 MR. BANNISTER: Carry over until a later
5 date.

6 SENATOR MARTIN: If we were to come back,
7 then --

8 CHAIRMAN CLEMMONS: Carry over --

9 SENATOR MALLOY: I think to carry over.

10 CHAIRMAN CLEMMONS: Senator Malloy, is
11 that your motion?

12 SENATOR MALLOY: Yes, sir. Thank you,
13 Mr. Chair. I will move to carry over on Judge
14 Burch's screening.

15 CHAIRMAN CLEMMONS: Thank you.

16 MS. WALL: Second.

17 CHAIRMAN CLEMMONS: And a second. Those
18 in favor, say aye.

19 (The Commission members vote.)

20 CHAIRMAN CLEMMONS: Those opposed?

21 (No response.)

22 CHAIRMAN CLEMMONS: The ayes have it.

23 MS. WALL: Move to go into executive
24 session.

25 CHAIRMAN CLEMMONS: So ordered. Staff

1 and security, will you please secure the room.

2 (Off the record.)

3 CHAIRMAN CLEMMONS: We have risen from
4 executive session. We took no votes, made no
5 decisions, discussed qualifications and
6 sought legal advice. For the purpose of
7 finding -- first of all, we are going to leave
8 the record open with regard to final
9 determination, or we're going to vote on
10 leaving the record open with regard to final
11 determination on William Gregory Seigler,
12 Family Court, 11th Judicial Circuit, Seat 1.
13 Do I have a motion?

14 SENATOR MARTIN: So moved.

15 MS. BELL: Second.

16 CHAIRMAN CLEMMONS: By Senator Martin and
17 second by Ms. Bell. Discussion?

18 (No response.)

19 CHAIRMAN CLEMMONS: Hearing none, all
20 those in favor, raise your hand.

21 (The Commission members vote.)

22 CHAIRMAN CLEMMONS: All those opposed?

23 (The Commission members vote.)

24 CHAIRMAN CLEMMONS: The majority vote is
25 to leave the record open for final

1 determination. With regard to the following
2 candidates: The Honorable Thomas H. White,
3 IV, Family Court, 16th Judicial Circuit, Seat
4 1, The Honorable Melissa Johnson Emery, Family
5 Court, 15th Judicial Circuit, Seat 2,
6 The Honorable Sebastien Phillip Lenksi,
7 Administrative Law Court, Seat 6, The
8 Honorable Peter L. Fuge, Family Court, 14th
9 Judicial Circuit, Seat 2. With regard to
10 those judges --

11 SENATOR MARTIN: Move they be nominated
12 and qualified.

13 CHAIRMAN CLEMMONS: We have a motion to
14 find them qualified and nominated.

15 SENATOR MALLOY: Second.

16 CHAIRMAN CLEMMONS: If you agree, please
17 raise your hand.

18 (The Commission members vote.)

19 SENATOR MARTIN: Senator Campsen votes
20 "aye."

21 CHAIRMAN CLEMMONS: Those opposed, raise
22 your hand.

23 (No response.)

24 CHAIRMAN CLEMMONS: And Representative
25 Bannister votes "aye." So by acclamation, the

1 judges that I just published in the record are
2 found qualified and nominated.

3 With regard to the following candidates:
4 Joseph King Coffey, Master-in-Equity for
5 Clarendon County, 3rd Circuit, The Honorable
6 James E. Chellis, Master-in-Equity, Dorchester
7 County, 1st Circuit, the Honorable Richard
8 Lauren Booth, Master-in-Equity, Sumter County,
9 3rd Circuit -- the Honorable James E. Moore,
10 Supreme Court, retired -- I'm sorry. We've
11 already handled the Honorable James E. Moore.
12 Strike that name from your list.

13 The Honorable Levy S. Alford, Circuit
14 Court, retired judge, The Honorable Brooks P.
15 Goldsmith, Circuit Court, retired judge, The
16 Honorable Charles Victor Pyle, Jr., Circuit
17 Court, retired judge, The Honorable Robert E.
18 Guess, Family Court, retired judge. That
19 will conclude the list.

20 SENATOR MARTIN: May they all be
21 qualified.

22 CHAIRMAN CLEMMONS: We have a motion by
23 Senator Martin to find all of them qualified.

24 MS. WALL: Second.

25 CHAIRMAN CLEMMONS: And we have a second

1 by Susan Wall. Any discussion?

2 (No response.)

3 CHAIRMAN CLEMMONS: Hearing none, those
4 in favor, raise your hand.

5 (The Commission members vote.)

6 CHAIRMAN CLEMMONS: Any opposed?

7 (No response.)

8 SENATOR MARTIN: Senator Campsen
9 votes "aye."

10 CHAIRMAN CLEMMONS: And Bannister votes
11 "aye." By acclamation, the list that I just
12 published are all found qualified. The
13 purpose for which this hearing for the last
14 five days having been called now being
15 accomplished, I thank each and every one of
16 you for your service and time, especially the
17 service and time of our staff getting
18 everything together and with that, we will
19 stand adjourned.

20 (There being no further questions,
21 the proceedings adjourned at 4:29 p.m.)

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CERTIFICATE OF REPORTER

I, LISA F. HUFFMAN, COURT REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA AT LARGE, HEREBY CERTIFY THAT I REPORTED THE SAID PROCEEDINGS, ON THE 20TH DAY OF NOVEMBER, 2015, THAT THE CANDIDATES WERE FIRST DULY SWORN AND THAT THE FOREGOING 203 PAGES CONSTITUTE A TRUE AND CORRECT TRANSCRIPTION OF SAID PROCEEDINGS TO THE BEST OF MY SKILL AND ABILITY.

I FURTHER CERTIFY THAT I AM NEITHER ATTORNEY NOR COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE PARTIES CONNECTED WITH THIS ACTION, NOR AM I FINANCIALLY INTERESTED IN SAID CAUSE.

I FURTHER CERTIFY THAT THE ORIGINAL OF SAID TRANSCRIPT WAS THEREAFTER SEALED BY ME AND DELIVERED TO, JUDICIAL MERIT SELECTION COMMISSION, 1101 PENDLETON STREET, COLUMBIA, SOUTH CAROLINA 29201, WHO WILL RETAIN THIS SEALED ORIGINAL TRANSCRIPT AND SHALL BE RESPONSIBLE FOR FILING SAME WITH THE COURT PRIOR TO TRIAL OR ANY HEARING WHICH MIGHT RESULT IN A FINAL ORDER ON ANY ISSUE.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL THIS 30TH DAY OF DECEMBER, 2015.

LISA F. HUFFMAN, COURT REPORTER
MY COMMISSION EXPIRES JULY 25, 2025

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VERIFICATION OF DEPONENT

WE, JUDICIAL MERIT SELECTION COMMISSION, HAVE READ THE FOREGOING TRANSCRIPT CONSISTING OF 204 PAGES, WHICH WAS REPORTED BY LISA F. HUFFMAN, COURT REPORTER AND NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA, ON THE 20TH DAY OF NOVEMBER, 2015.

I FIND THE TRANSCRIPT OF SAID PROCEEDINGS TO BE A TRUE AND ACCURATE TRANSCRIPT ACCORDING THE TESTIMONY ON THAT DATE, WITH THE EXCEPTION OF _____ CHANGES AND/OR CORRECTIONS LISTED ON THE ATTACHED ERRATA SHEET WHICH WAS FILLED IN BY ME.

JUDICIAL MERIT SELECTION COMMISSION

_____, 2015

